

Archer W. Webb,  
Henry B. Broadfoot,  
John Wilkes,  
Maxwell Cole,  
James M. Steele,  
Thomas D. Warner,  
Charles P. Cecil,  
Humbert W. Zirolli,  
George F. Chapline,  
Richard E. Webb,  
Gilbert C. Hoover,  
Martin B. Stonestreet,  
Lowell Cooper,  
Herbert J. Grassie,  
George D. Price,  
James A. Scott,  
James B. Ryan,  
Edwin F. Cochran,  
Thomas V. Cooper,  
Richard H. Jones,  
Andrew C. McFall,  
Robert N. Kennedy, and  
Cassin Young.

The following-named assistant surgeons to be passed assistant surgeons in the Navy with the rank of lieutenant from the 30th day of July, 1918:

Lawrence F. Drumm,  
Walter A. Vogelsang, and  
Elphege A. M. Gendreau.

The following-named passed assistant paymasters to be paymasters in the Navy with the rank of lieutenant commander from the 1st day of July, 1918:

Raymond E. Corcoran and  
Spencer E. Dickinson.

The following-named ensigns to be assistant naval constructors in the Navy with the rank of lieutenant (junior grade) from the 27th day of August, 1919:

Joseph W. Paige,  
James E. J. Kiernan,  
James R. Allen,  
Paul W. Haines,  
Charles H. Cushman,  
William R. Nichols,  
Richard McK. Rush,  
Charles A. Nicholson, 2d,  
Leslie C. Stevens, and  
Thomas P. Wynkoop.

Gunner James L. McKenna to be a chief gunner in the Navy from the 13th day of January, 1919.

Pay Clerk Hilton P. Tichenor to be a chief pay clerk in the Navy from the 9th day of May, 1919.

Pay Clerk Michael J. Kirwan to be a chief pay clerk in the Navy from the 26th day of May, 1919.

Maj. James MCE. Huey to be a lieutenant colonel in the Marine Corps, from the 23d day of November, 1919.

The following-named second lieutenants to be first lieutenants in the Marine Corps, from the 18th day of November, 1918:

John M. Arthur,  
Thomas P. Cheatham,  
Louis W. Whaley,  
William C. James,  
Thomas E. Bourke,  
James F. Jeffords, and  
Benjamin T. Cripps.

First Lieut. John M. Arthur to be a captain in the Marine Corps, from the 10th day of January, 1919.

First Lieut. Thomas P. Cheatham to be a captain in the Marine Corps from the 8th day of February, 1919.

First Lieut. Louis W. Whaley to be a captain in the Marine Corps from the 9th day of March, 1919.

First Lieut. William C. James to be a captain in the Marine Corps from the 5th day of April, 1919.

First Lieut. Thomas E. Bourke to be a captain in the Marine Corps from the 12th day of July, 1919.

First Lieut. James F. Jeffords to be a captain in the Marine Corps from the 1st day of August, 1919.

First Lieut. Benjamin T. Cripps to be a captain in the Marine Corps from the 1st day of September, 1919.

Lieut. Col. James T. Bootes to be a colonel in the Marine Corps, for temporary service, from the 23d day of November, 1919.

Maj. Frank Halford to be a lieutenant colonel in the Marine Corps, for temporary service, from the 23d day of November, 1919.

Capt. Woolman G. Emory to be a major in the Marine Corps, for temporary service, from the 23d day of November, 1919.

The following-named former captains in the Marine Corps to be second lieutenants in the Marine Corps, for temporary service, from the 15th day of November, 1919:

Clifford O. Henry,  
Gilbert D. Hatfield,  
Sidney W. Wentworth, and  
James A. Poulter.

## HOUSE OF REPRESENTATIVES.

FRIDAY, December 5, 1919.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Let thy spirit, Eeternal God, our Heavenly Father, possess our souls. Remove all petty desires, selfish ambitions, that we may concentrate our minds upon the eternal verities and meet the obligations Thou hast laid upon us, to the good of our Republic. Eliminate all wrongs, increase the just rights of every citizen throughout the land, that peace, harmony, brotherly love may obtain and thus reflect glory upon Thee. In the spirit of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Dudley, its enrolling clerk, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 3427. An act to establish a commission to report to Congress on the practicability, feasibility, and place, and to devise plans for the construction of a public bridge over the Niagara River from some point in the city of Buffalo, N. Y., to some point in the Dominion of Canada, and for other purposes.

### SALE OF CERTAIN LANDS NEAR MINIDOKA, IDAHO.

Mr. SMITH of Idaho. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate bill 1300, an act to authorize the sale of certain lands at or near Minidoka, Idaho, for railroad purposes, and put it on its passage, a similar bill, H. R. 2945, almost in identical language, having already passed the House.

Mr. GARD. Mr. Speaker, can we have the bill reported?

The SPEAKER. The Clerk will report the bill.

The Clerk reported the title of the bill.

The SPEAKER. The gentleman from Idaho asks unanimous consent that the Senate bill 1300, an act to authorize the sale of certain lands at or near Minidoka, Idaho, for railroad purposes, may now be taken up for consideration, a similar House bill having already passed the House. Is there objection?

Mr. GARD. Mr. Speaker, reserving the right to object, what is the bill about?

Mr. SMITH of Idaho. Mr. Speaker, it is a bill to authorize the sale of 67 acres of land to the Oregon Short Line Railroad Co. at Minidoka, a junction point, on which the company desires to build a roundhouse and switches.

Mr. GARD. The bill has already passed the House?

Mr. SMITH of Idaho. The bill passed the House a month ago, and the Senate inadvertently passed a similar Senate bill, instead of passing the House bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the bill.

The Clerk read the bill, as follows:

*Be it enacted, etc.* That the Secretary of the Interior be, and he is hereby, authorized to sell and convey to Oregon Short Line Railroad Co., a corporation organized and existing under the laws of the State of Utah and authorized to do business in the State of Idaho, its successors and assigns, for railroad purposes, and at a price to be fixed by the Secretary of the Interior in order to return the expenditure heretofore made or proposed for the irrigation of the lands at not less than \$50 per acre, and under such terms, conditions, and regulations as the Secretary of the Interior may prescribe, the following-described land, situated in Minidoka County, Idaho:

All that part of the west half of the southeast quarter and the southeast quarter of the southwest quarter of section 2, and the northwest quarter of the northeast quarter and the north half of the northwest quarter of section 11, all in township 8 south, range 25 east of the Boise meridian, within the following-described area:

Beginning at the intersection of the present southeasterly right of way boundary of the Twin Falls Branch of the Oregon Short Line Railroad Co. with the section line common to said sections 2 and 11, 100 feet southeasterly from and at right angles to the center line of main track of said railroad, said intersection also bearing north 89° 5' west, 460.1 feet from the quarter section corner common to said sections 2 and 11; thence north 40° 25' east along said southeasterly right of way boundary, being 100 feet southeasterly from and parallel to said

center line of main track, for a distance of 1,726.8 feet; thence south 0° 1' east, and parallel to the north and south center line of said section 2, for a distance of 1,332.6 feet, to a point in the section line common to said sections 2 and 11; thence continuing south 0° 1' east, and parallel to the north and south center line of said section 11, for a distance of 1,320 feet, to the south line of the northwest quarter of the northeast quarter and the north half of the northwest quarter of said section 11; thence north 89° 5' west, along said south line, for a distance of 2,229.5 feet, to a point in the present southeasterly right of way boundary of said railroad; thence north 40° 25' east, along said right of way boundary, and being 100 feet southeasterly from and parallel to said center line of main track, for a distance of 1,710.4 feet, to the point of beginning, and containing in all 67.87 acres, more or less, within the proposed pumping unit of the Minidoka project of the United States Reclamation Service.

Mr. SMITH of Idaho. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

Mr. MANN of Illinois. Mr. Speaker, a parliamentary inquiry. What is the matter now pending before the House?

The SPEAKER. The House has given unanimous consent for the consideration of the Senate bill 1300.

Mr. MANN of Illinois. Without having it read?

The SPEAKER. It has been read.

Mr. MANN of Illinois. It was not read before unanimous consent was given. We could not hear what the Chair said. I did not know that unanimous consent had been given.

The SPEAKER. It was read by title before the consent was given.

Mr. MANN of Illinois. Mr. Speaker, reserving the right to object, what is the bill?

Mr. SMITH of Idaho. Mr. Speaker, the bill provides for the sale of 67 acres of land to the Oregon Short Line Railroad Co. at Minidoka, a junction point, on which they desire to build tracks and a roundhouse. The bill passed the House about a month ago, and the Senate a few days later passed a similar bill, introduced in the Senate, and we are now considering the Senate bill, which has been on the Speaker's table for the last three weeks.

Mr. MANN of Illinois. Why was it not referred to the committee so that it could come up in the regular way or put on the Unanimous Consent Calendar?

Mr. SMITH of Idaho. Because a similar bill has already passed the House, and it was not deemed necessary to send the Senate bill to the committee, but it was held on the Speaker's table to come up under the rule.

Mr. MANN of Illinois. But it is not coming up under any rule. There is no rule providing for its coming up in this way. The rules specifically provide for the contrary. The rules provide that this bill should be sent to the committee. I shall not object, since consent has been given for the consideration of the bill without the knowledge of the House, but it is mighty poor practice. There is a unanimous-consent day in the House, when bills of this sort should properly come before the House, so that Members may have notice. This bill does not come within the rule for two reasons: First, it is not a House Calendar bill, and, second, there is no bill on the calendar from the House committee.

Mr. SMITH of Idaho. A similar bill has already passed the House.

Mr. MANN of Illinois. But the rule provides that in such case Senate bills shall be sent to the committee and reported to the House.

The SPEAKER. Is there objection to the bill being considered in the House instead of in the Committee of the Whole?

Mr. WINGO. Reserving the right to object, out of curiosity, I want to know how this bill does come before the House, for I may want to use the same process myself in the future.

Mr. SMITH of Idaho. It is a Senate bill and has been on the Speaker's table for some time, a similar bill having already passed the House and was pending in the Senate Committee on Public Lands, but through an inadvertence the Senate considered the Senate bill instead of the House bill.

Mr. WINGO. Will the gentleman please tell me where he finds any rule that will permit this kind of procedure?

Mr. SMITH of Idaho. Under the rules of the House that a similar bill having been reported to the House it would be proper to call up the Senate bill.

The SPEAKER. It was done by unanimous consent. Unanimous consent was given.

Mr. WINGO. I am not quibbling, but I want to know.

The SPEAKER. The gentleman from Idaho asked unanimous consent for its consideration and that unanimous consent was granted.

Mr. WINGO. And the Speaker holds that is a matter of discretion with the Speaker, if he desires to submit the request for unanimous consent?

The SPEAKER. The Chair thinks so. The gentleman from Idaho now asks unanimous consent that it be considered in the House as in Committee of the Whole. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the bill.

The Clerk again read the bill.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. SMITH of Idaho, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### BILLS ON THE PRIVATE CALENDAR.

Mr. EDMONDS. Mr. Speaker, on Friday, October 31, when the bills on the Private Calendar were before the House, there were a number of bills left over for third reading, and I would like to have them called up at the present time.

Mr. WALSH. Mr. Speaker, is the gentleman endeavoring to take up claims bills for consideration?

Mr. EDMONDS. No; this is the unfinished business.

Mr. WALSH. Well, I make the point of order that the House has adopted resolution 408 for the consideration of this grain standard package bill. It provides that after general debate the bill shall be read under the five-minute rule. That is a continuing order even though the rule does not specifically say so.

Mr. BLANTON. Mr. Speaker, I make the point of order that the rule not having made this bill a continuing order it would not be a continuing order. I make the point of order that the rule must provide that it be the continuing order of the House.

Mr. MANN of Illinois. Mr. Speaker, the rule provides that immediately upon the adoption of this rule the House shall resolve itself in Committee of the Whole House on the state of the Union. That is the rule requiring the Speaker to declare the House is resolved into the Committee of the Whole House on the state of the Union upon the demand for the regular order, whenever the stage of unfinished business is reached in the House, after business on the Speaker's table is disposed of. That ruling was made first, I believe, by Speaker CANNON. It was made many times and acted upon many times by Speaker CLARK that the House having adopted a rule providing that it shall immediately consider a bill in Committee of the Whole House on the state of the Union it does not even require a motion to go into Committee of the Whole House on the state of the Union, but the House automatically resolves itself into Committee of the Whole House on the state of the Union without motion.

The SPEAKER. Can the gentleman cite the Chair to one of those precedents?

Mr. MANN of Illinois. I can not cite the Chair to the RECORD where it contains the precedent, but I know the precedents have been so all the time, commencing years ago. The purpose of that was this, and it is perfectly simple, that when the House adopted a rule—often a partisan one, adopted as a party proposition—it was not then proposed to have the House take the time to vote upon the question whether it should resolve itself into the Committee of the Whole House on the state of the Union, that having just been decided that they would resolve into Committee of the Whole House on the state of the Union it was not again to take up the time of the House where there was an effort for obstruction.

Mr. CAMPBELL of Kansas. Mr. Speaker, what the gentleman from Illinois says as to precedents is entirely correct, but at the time the ruling was made by Speaker CANNON, followed by Speaker CLARK, it had been the custom to bring in rules without differentiating between a rule that made a bill a continuing order and a rule that made a bill in order. Beginning some time during the Sixty-fifth Congress the Committee on Rules adopted the policy of specifying in the rule whether or not a bill should be the continuing order under the rule, and during this Congress it has been the practice of the Committee on Rules in preparing a rule to ascertain whether or not it was desired or desirable that the bill in question should be made a continuing order.

Mr. WALSH. Will the gentleman yield?

Mr. CAMPBELL of Kansas. If so, the rule so specifies; if not, the rule simply made the bill in order. I yield to the gentleman from Massachusetts.

Mr. WALSH. I think the gentleman has in mind, as he is the gentleman who has reported most of the rules, rules which read that it should be in order to move that the House go into the Committee of the Whole House on the state of the Union, it having been held by the Chair in the Sixty-fifth Congress that



this does not make the business a continuing order, but where the rule reads that upon the adoption of this rule the House shall resolve itself into the Committee of the Whole House on the state of the Union, I think invariably in the Sixty-fifth Congress, and I think the present Speaker has ruled early in the first session of this Congress, that it made the matter a continuing order.

Mr. CAMPBELL of Kansas. The construction suggested by the gentleman from Massachusetts is not the construction placed by the Committee on Rules upon the declaration in the rule that immediately upon the adoption of the rule the House should resolve itself into Committee of the Whole House on the state of the Union. That declaration in the rule has of late years been for the purpose of avoiding, perhaps, a roll call on a motion to go into Committee of the Whole House on the state of the Union. The one motion adopting the rule would resolve the House into the Committee of the Whole House on the state of the Union rather than to adopt the rule and then require the House to have another roll call or motion to go into the Committee of the Whole. As I say, the purpose of the House has been expressed in this Congress in the rule itself when it was the intention that the bill should be made a continuing order.

Mr. MANN of Illinois. Mr. Speaker, I am sure the gentleman from Kansas upon reflection will see that his argument falls to the ground. There were times under the old rules of the House when it was decided that a rule was only for the day or only for a particular occasion. Now, here comes the form of a rule which says that the House shall immediately resolve itself into the Committee of the Whole House on the state of the Union. The gentleman from Kansas, with a good deal of authority as chairman of the Committee on Rules, says that it is not a continuing order because it does not so expressly state. Then the rule is dead if that is the case. That ends the consideration of that bill unless a new rule comes up. That is not all. Under the expression of the gentleman from Kansas if yesterday the House during the consideration of that bill in the Committee of the Whole House had risen, as it frequently does if an appropriation bill or something else came in, it could not go back into the Committee of the Whole House on the state of the Union because the order would be defunct, having been exercised once under the gentleman's contention of not being a continuing order, and therefore it is dead. Now, that was not the intention of that form of rule. It has been frequently the case where the committee or the House went into the Committee of the Whole House on the state of the Union for the consideration of bills of this sort, that the committee rose and automatically went back into committee from the House; where the next day the House automatically resolved itself into Committee of the Whole House on the state of the Union.

If the gentleman's committee desires that a rule shall be only for the day, they ought to so state, but here they put it that the House shall consider this bill through the stage of the five-minute rule, and when they are through report back to the House, and this order continues until the bill is reported back to the House in some shape.

Mr. CAMPBELL of Kansas. Will the gentleman from Illinois yield for a question?

Mr. MANN of Illinois. Certainly.

Mr. CAMPBELL of Kansas. If this bill had been made an order on Tuesday instead of on Thursday, the House would not have considered the bill on Wednesday, would it?

Mr. MANN of Illinois. I do not know whether it would or not. I am not sure about that; but I think Speaker CLARK held—I am not sure what he held—that the rule providing for Calendar Wednesday shall not be set aside except by express vote of two-thirds of the Members, and a rule of this sort did not set it aside. I am not sure whether he held that or whether he held it was set aside and the two-thirds vote so presumed. I know the rule subject to that would not be in order to set aside Calendar Wednesday.

Mr. CAMPBELL of Kansas. The general rules of the House have set apart to-day for bills from the Committee on Claims and the Committee on War Claims.

Mr. MANN of Illinois. The general rules have not set apart Fridays for the consideration of such bills. They made it in order to consider such bills on Friday, but an appropriation bill or revenue bill on to-day would have preference in making the motion.

Mr. CAMPBELL of Kansas. If a motion were made. The House could decide whether to consider one or the other.

Mr. MANN of Illinois. The House has passed a rule, and there is no escape from it.

Mr. TOWNER. Will the gentleman yield?

Mr. MANN of Illinois. I will.

Mr. TOWNER. The chairman and members of the committee will understand that Calendar Wednesday stands in a very different relation to the business of that day than that which occurs upon the assignment of other days for particular purposes. There is no other place where it says that no business shall be in order except, as provided in paragraph 4, and so forth. Calendar Wednesday is an express exception to the general assignment of the business of the House.

Mr. MANN of Illinois. Undoubtedly.

Mr. TOWNER. And, of course, what would occur with regard to the cessation of business on Tuesday evening, being confronted by Calendar Wednesday, would not be the rule in regard to any other days.

Mr. MANN of Illinois. Certainly not.

Mr. TOWNER. Mr. Speaker, the question that is before the House is not quite clear under the precedents. I think it is within the fact to say that the line of precedents and the line of reasoning supporting them would go to the extent of holding that in a case such as we have before us now it would be the duty of the Chair, upon the disposition of the morning business, to say that the House should resolve itself automatically into the Committee of the Whole House for the purpose of considering a bill that has been reported by rule, making it especially in order. The report of the Committee on Rules to the House supersedes the general rules of the House in almost every case, and it would certainly, as the gentleman from Illinois has so well pointed out, be an exceedingly dangerous thing to say that a bill should not be a continuing order except when the report of the Committee on Rules so expressly stated. When we have determined that at a certain time the House shall resolve itself into the Committee of the Whole House for the purpose of considering a bill, that of itself makes it a continuing order, unless it is superseded by some superior authority, and it seems to me that the rule for to-day could not be considered as such a superior authority.

Mr. MONDELL. Mr. Speaker, I do not think it at all important, from the standpoint of the business of the House, whether we proceed with the consideration of the bill that was considered yesterday or take up the consideration of the Private Calendar. Eventually we will arrive at the same place. It is just a question of which class of business shall be first considered. But I can not agree with the gentleman from Iowa [Mr. TOWNER], who has just spoken, or the gentleman from Illinois [Mr. MANN] in their interpretation of the rule. If this rule makes this bill a continuing order as against anything and everything else, I am at a loss to know just what language the Committee on Rules could use to simply make a measure in order in the House.

Mr. WALSH. Will the gentleman yield?

Mr. MONDELL. I yield.

Mr. WALSH. Does the gentleman recall the language used in the rule making the railroad bill in order?

Mr. MONDELL. Yes.

Mr. WALSH. Why would not that answer the gentleman's question?

Mr. MONDELL. Well, the two rules are not similar, and therefore the gentleman's reference to the railroad bill does not answer my query.

Mr. LONGWORTH. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. LONGWORTH. Would not what the gentleman suggests be carried out by language in this rule that, instead of "upon the adoption it shall resolve itself," should say "it shall be in order to move"?

Mr. MONDELL. I was just coming to that.

What gentlemen are arguing is this: That because the rule, instead of providing that it should be in order to go into Committee of the Whole House on its adoption, it places the House in the Committee of the Whole; that therefore the rule and the authority that it gives are altogether changed and different from what they would be if the rule simply provided that a motion might be made to go into Committee of the Whole. Now, I can not agree with that. The Committee on Rules in adopting a rule of this sort intended to avoid the necessity of a vote on the motion to go into Committee of the Whole, and that is all.

Mr. WALSH. Will the gentleman yield?

Mr. MONDELL. In just a moment.

It did not intend by using that language to give the rule any higher privilege or any greater potency than it otherwise would have, but, in my opinion, all it then did was to make this bill in order yesterday, which makes it the unfinished business for the future. The gentleman from Illinois [Mr. MANN] said

there was no time when it could be taken up. It could be taken up to-morrow.

Mr. MANN of Illinois. How?

Mr. MONDELL. It could come up to-morrow as unfinished business.

Mr. MANN of Illinois. How would it come up?

Mr. MONDELL. It would come up by a motion made by the gentleman in charge of the bill that the House resolve itself into Committee of the Whole House on the state of the Union and take the bill up. And the fact that the rule provided that at the time the rule was adopted the House should go automatically into Committee of the Whole does not mean that thereafter, and for the entire session of Congress, if this bill should remain before the House, the House must always go automatically into Committee of the Whole the moment it met for the consideration of this bill, to the exclusion of appropriation bills and bills from the Committee on Ways and Means and all the other business of the House.

That is unthinkable. If the Committee on Rules intended to make this bill a continuing order to the exclusion of all other business, the committee would have used language indicating its intent. It had no such intent, as has been stated by the chairman of the committee.

Mr. WINGO. Mr. Speaker, will the gentleman yield for a question?

Mr. MONDELL. Yes.

Mr. WINGO. I understand the gentleman argues that the rule gave this bill priority just for one day.

Mr. MONDELL. No; not priority just for one day. The rule brought the bill before the House for consideration.

Mr. WINGO. Did it not go further?

Mr. MONDELL. Bills come before the House for consideration in a great variety of ways, but they are not necessarily made a continuing order. Will the gentleman from Massachusetts [Mr. WALSH] indicate how the Committee on Rules can bring a measure into the House without making it a continuing order if the simple language of this resolution makes it a continuing order?

Mr. WALSH. It can do so by bringing in a rule providing that on the adoption of this rule it shall be in order for the House to move to resolve itself. That puts it up to the chairman of the committee to make that motion or not. That is what has been done heretofore.

Mr. MONDELL. Mr. Speaker, it strikes me as a very strained construction of that language to say that language, the only intent of which was to avoid a possible roll call, entirely changes the character of a rule and invests it with a dignity and potency and effect that it would not otherwise have. If that is true, then how can the Committee on Rules make a provision for going into Committee of the Whole without by so doing making a bill a continuing order?

Mr. WALSH. Will the gentleman give me a citation of the authority that he finds in this rule for anybody to make a motion to go into Committee of the Whole after the House has once gone into the Committee of the Whole automatically?

Mr. MONDELL. Oh, I do not think it is at all necessary in the adoption of a rule to have any provision in the rule under which various motions may be made. I do not think that is essential. But, Mr. Speaker, I do not think the matter is important. Depending upon what the decision of the Chair may be, the Committee on Rules will govern itself accordingly in the future; and so far as the business of the House is concerned, I think it is entirely immaterial whether we take up the Vestal bill to-day or go to the Private Calendar. But I am sure that the Committee on Rules had no thought of making this a continuing order, particularly a continuing order under which the House must automatically take it up every time it meets.

Mr. SINNOTT. Mr. Speaker, I wish to cite to the Speaker section 3201 and the following section, Volume IV of Hinds' Precedents, which would seem to indicate that before a regular day set apart by the rules of the House for the consideration of business is to be eliminated by a rule there must be some particular language in the rule eliminating that day.

Now, section 3202 shows that Mr. Reed, of Maine, made a point of order that the consideration of the bill then in question was not in order, the day being Friday and set apart under the rules of the House for the consideration of private business. The Speaker overruled Mr. Reed, but he overruled him because the special order made the bill a special order "to continue from day to day until finally acted on."

Now, that shows that the rule contained specific language eliminating Friday from the regular business to which that day was devoted.

The SPEAKER. The Chair is ready to rule. This rule is not entirely explicit, and perhaps the Chair could rule either way;

but the Chair is disposed to think that, in order to have an unbroken line of precedents and in order to make easier the task of the committee in the future in drawing rules, it would be wisest to hold that this rule does order that the House automatically go into Committee of the Whole.

If the Committee on Rules desires to make a bill privileged, it is easy to state that it shall be in order to move to go into Committee of the Whole, and that would always allow the House to exercise its will, because, particularly in the case of a bill which is likely to take up time, it is important that the House should each day have an opportunity to set it temporarily aside and not be obliged automatically to go into committee when there is other business it might desire to dispose of first.

Moreover, the Chair is troubled with the question which the gentleman from Massachusetts [Mr. WALSH] asked—that if the Chair should hold that we did not automatically go into Committee of the Whole, inasmuch as the previous question has not been ordered on the bill and it is not unfinished business, just what claim would the bill have for consideration. The Chair would probably rule as he has before, that it was the intention, as was stated by the gentleman from Kansas [Mr. CAMPBELL], to give it that privilege.

But the Chair finds a precedent back in 1894 holding that on just such a resolution as this the House does automatically go into Committee of the Whole, and the Chair is informed and thinks he remembers, although no precedents have been cited, that under the administrations of Speaker CLARK and of Speaker CANNON that precedent was followed. So the Chair rules that the House automatically resolves itself into Committee of the Whole under the rule, and the gentleman from New York [Mr. HICKS] will take the chair.

Thereupon the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 9755, with Mr. HICKS in the chair.

The CHAIRMAN. The House having automatically resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 9755, the Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 9755) to establish the standard of weights and measures for the following wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs, and for other purposes.

Mr. GARD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARD. Is there any amendment to section 1 now pending for action by the committee?

The CHAIRMAN. The Chair will state that last night, immediately before the committee rose, the gentleman from Arkansas [Mr. WINGO] offered an amendment to the section. A divisional vote being asked for and taken, the lack of a quorum was disclosed, whereupon the gentleman from Arkansas made the point of order that no quorum was present; thereupon the committee rose. Under Rule XXIII, section 8, it provides that "the rules of proceeding in the House shall be observed in Committee of the Whole so far as they may be applicable."

Paragraph 503, Jefferson's Manual, provides that "when from counting the House on a division it appears that there is not a quorum, the matter continues exactly in the state in which it was before the division and must be resumed at that point at any future day." Were it necessary to further fortify the Chair's ruling, he would refer to volume 4 of Hines, paragraph 2974, where in a similar case it was decided that the vote was made invalid on the establishment of a point of no quorum. The Chair rules that the vote now comes upon the amendment offered by the gentleman from Arkansas.

Mr. WINGO. Mr. Chairman, I ask unanimous consent that the amendment be reported.

The CHAIRMAN. The gentleman from Arkansas asks unanimous consent that the amendment be now reported. Is there objection?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. WINGO: Page 2, line 2, after the word "pounds," strike out the remainder of section 1.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas.

The question being taken, the amendment was rejected.

Mr. BLANTON. Mr. Chairman, I offer an amendment to strike out the section.

Mr. GARD. I have several perfecting amendments, which, probably, should be considered first.

Mr. BLANTON. They should be considered first, of course.

The CHAIRMAN. Will the gentleman from Texas withhold his amendment?



Mr. BLANTON. I withhold my amendment pending the consideration of the perfecting amendments.

Mr. GARD. I desire to offer an amendment.

The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GARD: Page 2, line 3, after the word "only," insert "in packages of."

Mr. GARD. Mr. Chairman, I desire to call the attention of the chairman of the committee to this amendment, which, to my mind makes the language clear. The language now reads:

And in addition, but for commercial feeding stuffs only, 60, 70, or 80 pounds.

The amendment I offer is to make the language more clear and the intention more clear by inserting the words "in packages of," before the words "60, 70, or 80 pounds."

Mr. MANN of Illinois. Will the gentleman yield?

Mr. GARD. Surely.

Mr. MANN of Illinois. The bill provides that these articles shall be in packages containing net avoirdupois weight 100 pounds, or a multiple of 100 pounds, or certain fractions thereof, but it is all in packages. Now, if the gentleman inserts the words "in packages of" where he proposes, would not the inference be that the former part of the bill providing for 100 pounds and multiples of 100 pounds and fractions of 100 pounds did not apply to commercial feedstuffs, because the word "packages" is inserted a second time?

Mr. GARD. I do not think so.

Mr. MANN of Illinois. It seems to me that would be the inference, because if you find it necessary to insert the word "packages" the second time the word "packages" the first time does not apply, or else you would not insert it the second time.

Mr. GARD. I am very glad to have the suggestion of the gentleman.

Mr. MANN of Illinois. In line 9, page 1, it is provided that these articles must be in a package containing 100 pounds, or a multiple of 100 pounds, or certain fractions thereof. Then, in addition, in certain cases it is provided that it may be 60, 70, or 80 pounds. But if you insert the word "package" there it seems to me you indicate that it does not relate to the term "a package" on the first page.

Mr. GARD. I do not see how there can be any separation of the ideas. My amendment is simply to clarify and make certain the language. If the committee think it is unnecessary I withdraw the amendment and offer another one.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. GARD. I offer another amendment.

The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GARD: Page 2, line 3, after the word "pounds" strike out the period and insert a comma and the following language: "and each of which packages shall bear a plain, legible, and conspicuous statement of the net weight contained therein."

Mr. GARD. Mr. Chairman, this amendment is offered so that the buyer of these packages, whether they be food packages or whether they be feed packages, will be entitled to knowledge, to be contained in a plain, legible, and conspicuous statement, of the net weight contained therein.

Mr. RAKER. Will the gentleman yield?

Mr. GARD. I yield to the gentleman from California.

Mr. RAKER. Inasmuch as the act provides a penalty for failure to insert the prescribed net weight, is it not to be presumed that it will contain it, and therefore that the extra trouble and expense of requiring the seller to put the statement on the package may be unnecessary?

Mr. GARD. No; I think by all means it should be stated on the package. I think if we are to get any benefit from this bill reported by the Committee on Coinage, Weights, and Measures, the packages submitted for sale should actually bear upon their faces a statement of the true net weight of the contents.

Mr. MANN of Illinois. Will the gentleman yield?

Mr. GARD. I yield to the gentleman from Illinois.

Mr. MANN of Illinois. I am informed by the gentleman from Indiana [Mr. VESTAL] that in his opinion commercial feedstuffs are not covered by the pure-food law. I was under the impression that they were.

Mr. GARD. No; I do not think they are.

Mr. MANN of Illinois. The net weight of packages is required to be stated on all articles covered by the pure-food law. The enforcement of that law, of course, is in the Department of Agriculture.

Mr. GARD. This is a different proposition, to be enforced by the Bureau of Standards, as the gentleman knows.

Mr. MANN of Illinois. Yes.

Mr. GARD. And it seems to me that the same rule should apply, that the consumer should have the benefit of knowing what is the actual net weight of the contents of the package he buys.

Mr. MANN of Illinois. I agree with the gentleman about that proposition.

Mr. TILSON. Will the gentleman yield?

Mr. GARD. Yes.

Mr. TILSON. How does the gentleman read section 3 in this connection? Will this be in conflict with the supplementary legislation contained in section 3?

Mr. GARD. No; it will not. I will say that the reason I offered the other amendment is that the gentleman from Indiana [Mr. VESTAL] yesterday said he had been in communication with the Agricultural Department, and he intended to offer an amendment which would strike out some language in section 2, after the word "hereof," in lines 20, 21, and 22, and including the word "therein." So that it would in effect be a transposition, except that it would make it entirely sure in the first paragraph, which fixes the standard of packages. It would make it entirely sure that the man buying flour, hominy, grits, or meal in small packages—and the great bulk of the purchases in this country are in small packages, since they have no room for storage—it would make sure that the buyer of the package was buying honest weight.

Mr. VESTAL. Will the gentleman yield?

Mr. GARD. Yes.

Mr. VESTAL. I will say to the gentleman from Ohio that at the time I made the statement yesterday I was misinformed as to the provisions of the pure-food law taking care of commercial feedstuff, and so the amendment I stated yesterday I would offer I shall not offer. I have no objection to this amendment, for I do not think it hurts anything.

Mr. WINGO. Mr. Chairman, I rise in opposition to the amendment. I think everybody else will be opposed to the amendment if they stop long enough to read the bill fully and see what you are going to do. This amendment will go to the matters on page 1 so far as the classification of what you are doing. You cover the packing, you cover the shipping, you cover the selling and the offering for sale. To come within the provisions of this bill you do not have to offer it for sale. If a farmer packs his feedstuff for his own use, if he packs it, he is subject to the provisions of the bill. Now, you do not intend to do that, but that is what you are doing. There is not a man on the floor who will sit down and read carefully who will doubt that you are covering the packing, you are covering the shipping, you are covering the selling, you are covering the offering for sale. You use the alternative "or" and not the conjunctive "and." It is beautifully written, but if you add on this amendment what happens? The farmer can not actually pack his own feedstuff, grown on his own farm, worked up in his own mill, unless he puts it up in packages and marks it as indicated. The American Congress has come to a wonderful pass when it enacts such legislation as this. It is bad enough as it is, but this would make it worse. I am going to offer later an amendment knocking out the packing and the shipping.

There can be some argument to control the sale of stuff for public use to different people throughout the country, but in the name of high heaven, what public good can be subserved, how can the health of this country be subserved, how can the people be protected against fraud, to say that a man must pack his stuff in a certain way, although he is to use it himself? That is what you do in the bill. This bill is like the ways of God, it passes all understanding, and the more you study it the worse mess it is.

Mr. CANNON. Will the gentleman yield?

Mr. WINGO. Yes.

Mr. CANNON. In lines 7 and 8 it says "when the same are packed, shipped, sold, or offered for sale in packages."

Mr. WINGO. That is it, "packed, shipped, sold, or offered for sale"—not "and" but "or."

Mr. CANNON. And would not the law only apply in the event that it is packed for sale?

Mr. WINGO. Does the gentleman think that?

Mr. CANNON. It seems to me so. If it is not so I am against it.

Mr. WINGO. Is there any lawyer in the House will say, where the word "or" is used instead of "and," that it does not mean that every one of the separate substantive propositions would be an offense, and he would not have to sell it?

Mr. TILSON. Will the gentleman yield?

Mr. WINGO. Yes.

Mr. TILSON. Is not there an additional difficulty in the way of the interpretation proposed by the gentleman from Illinois? The word "sold" comes in there, and if his interpretation is correct it would mean, if written out in full, "packed" for sale, "shipped" for sale, "sold" for sale, and "offered" for sale.

Mr. WINGO. I am not making any criticism of the gentleman from Illinois. Even an old experienced legislator as he is will get the headache when he comes to try to analyze this bill. [Laughter.] It is like the famous snake railroad, which wriggled in and wriggled out and left the people all in doubt whether in its zigzag track it was going east or coming back.

My object was to call the attention of gentlemen to what we are trying to do. I am unable to find that what you want to do is not covered by the pure-food law. But you say if you pack it, ship it, or sell it you have got to do it in a certain way, put it up in a certain kind of a package. Why not go the whole length and describe the color of the package?

Mr. MANN of Illinois. That might be well, so that the gentleman could recognize it.

Mr. WINGO. No; I am color blind; and if many more bills are introduced like this it will be enough to make any legislator legally blind.

The idea of saying that if you pack it or ship it or sell it you must put it in a certain kind of package! Why do you not provide that you must have red ribbons on it or a piece of cardboard? Why do not you require that it shall have a verse upon it? It would protect the public health and the people against fraud just as much as this.

The CHAIRMAN. The time of the gentleman from Arkansas has expired. The question is on the amendment offered by the gentleman from Ohio.

The question was taken; and on a division (demanded by Mr. GARD) there were—ayes 30, noes 7.

So the amendment was agreed to.

Mr. BLANTON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment by Mr. BLANTON: Page 1, line 4, strike out the word "flours."

Mr. BLANTON. Mr. Chairman, I have offered this amendment merely as a pro forma one for the purpose of enabling me to call attention to the statement made yesterday concerning this bill by the gentleman from Iowa [Mr. TOWNER]. Flour now, as it is sold throughout the country, is put up in packages of 3 pounds, 6 pounds, 12 pounds, 24 pounds, and 48 pounds. The gentleman from Iowa said that there was a reason for changing this system to packages, where it was under 100 pounds, of 5 pounds, 10 pounds, 25 pounds, and 50 pounds, so that the customer could easily ascertain on buying the flour whether or not he was getting the full amount for which he was paying. In other words, the gentleman from Iowa would have us believe that a purchaser in going into a store could better tell whether a sack of flour presumed to contain 50 pounds did actually contain 50 pounds than he could tell whether or not a sack of flour presumed to contain 48 pounds actually contained 48 pounds. His argument, it seems to me, is ridiculous. The people of the country know now that when they buy flour generally known as a quarter of a barrel, they are presumed to get 48 pounds. How on earth could they better tell they are getting 50 pounds in a 50-pound sack than they are able now to tell whether they are getting 48 pounds in a 48-pound sack, and so on down the line with the smaller sacks? I do not see how this particular bill helps the situation at all.

With regard to wheat and corn, every business man knows that with respect to every bushel of these crops the manufacturers of sacks have already made their arrangements to handle the entire crops, so far as sacks are concerned. The sacks are either manufactured or are now in the process of manufacture. We know that upon these sacks each mill places its distinct printed label, which costs much money. Not only is this true with respect to flour, but it is likewise true with respect to meal and corn products of all kinds. There is an apparent distinction made in the bill with regard to corn products as distinguished from wheat products. In other words, in section 8 of the bill it is provided that the act shall not take effect so far as corn products are concerned until 90 days after its passage, but with respect to wheat flour and wheat products it is to take effect 12 months after its passage. So far as the corn crop is concerned, so far as the corn-meal sacks and the corn-products containers—the hominy containers and the grits containers—all of which are corn products—

Mr. LAYTON rose.

Mr. BLANTON. I yield to the gentleman from Delaware.

Mr. LAYTON. I was wondering whether the gentleman from Texas has looked at section 8 of the bill. Does he not think that that provides for the difficulty in respect to the matter of sacks?

Mr. BLANTON. I am just calling attention to the fact that the bill in section 8 has made a distinction between corn products, because it says that in so far as corn products are concerned the bill shall take effect 90 days after the passage, but with regard to wheat and all other products it does not take effect until one year after its passage.

Mr. LAYTON. The gentleman knows the reason why, does he not?

Mr. BLANTON. And I am calling attention to the fact that there are many sacks, containers for corn flour, grits, and hominy, which are already in existence, which means an outlay of an immense amount of money, all of which would probably be lost if they had to be disposed of within 90 days after the passage of the act, as it would be impossible to dispose of them through regular channels of trade within that short limit of time.

Mr. LAYTON. Does the gentleman not understand that for the protection of the public it is made 90 days, because corn products and corn will undergo fermentation in much less time than wheat?

Mr. BLANTON. I knew that corn was probably undergoing fermentation in some of the mountains of northern Alabama and in other secluded places, but I did not know that that process was being carried on in Delaware.

Mr. LAYTON. It goes on in Texas, a great deal of it.

Mr. BLANTON. No; we have other use for our corn there.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. VESTAL. Mr. Chairman, I ask unanimous consent that all debate upon this section and all amendments thereto close in 10 minutes.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that all debate upon this section and all amendments thereto close in 10 minutes. Is there objection?

Mr. STEVENSON. Mr. Chairman, reserving the right to object, I have an amendment which I desire to offer.

Mr. WINGO. Mr. Chairman, there are several amendments to be offered.

The CHAIRMAN. Does the gentleman from South Carolina object?

Mr. STEVENSON. I object.

The CHAIRMAN. The gentleman from South Carolina objects, and the question now is on the amendment offered by the gentleman from Texas.

Mr. BLANTON. Mr. Chairman, that was merely a pro forma amendment, and I ask unanimous consent to withdraw it.

The CHAIRMAN. Is there objection to the withdrawal of the amendment offered by the gentleman from Texas?

There was no objection.

Mr. WINGO. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Wingo: Page 1, line 7, strike out the words "packed, shipped."

Mr. WINGO. Now, Mr. Chairman, I would like to ask the chairman of the committee if it is intended to apply the penalty of this act to a man who simply packs for his own use, not for public consumption and sale?

Mr. VESTAL. It certainly is not, nor does the language here apply that way at all.

Mr. WINGO. Will the gentleman be willing to say, when the same are packed or shipped for sale, sold, or offered for sale?

Mr. VESTAL. I think the language in the bill is preferable.

Mr. WINGO. Mr. Chairman, I will ask the lawyers to examine the language on the first page, "packed," and a comma after it, "shipped," and a comma after it, "sold," a comma after it, "or offered for sale in packages," and so forth. Now, what does that do? Just what the gentleman says it is not intended to do. Of course the gentleman does not intend it. What the gentleman wants to do is to cover commodities that are packed for sale for consumption by the public. He does not intend to cover the mere packing of it. He does not intend to require the small miller or farmer to pack it in a certain sized package or to ship it, even though he may ship it from his farm to his feeding yards. What the gentleman intends to do is to cover the question of the package when it is packed and shipped for sale and consumption by the general public. Now, if you knock out the words "packed and shipped" it will read this way: "And the standard measure for such commodi-



ties, when the same are sold or offered for sale." Now, if you prohibit the sale of it, offered for sale, except in your standard packages, you have done everything that you want to do. Why penalize the man if the packing is for himself and the shipping is to himself for his own consumption? Do you want to protect him against fraud or against himself? Mr. Chairman, I ask for a vote.

Mr. MANN of Illinois. Mr. Chairman, just a word. The gentleman has hammered at this so long that somebody might believe he was serious, although he and I both know he is not. If you are going to have a law, you want to have a law that can be enforced, and the desirable thing is not to enforce it against the retail dealer, but enforce it against the miller who puts up the packages, enforce it by examining the package in his mill not offered for sale. Nobody knows it will be offered for sale. There will be no way of proving it is offered for sale, because it is not yet offered for sale. It is some of the large millers, who, if anybody, violate the law when they put up the package, when they put it upon cars for shipment, should be liable to the law. Now, the farmer putting wheat flour which he grinds—and I believe there are many of them—in a barrel will not be affected by this bill if he consumes his own flour. The gentleman need not be so unduly sensitive on that subject. Let us have a law that can be enforced.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas.

The question was taken, and the amendment was rejected.

Mr. WINGO. Mr. Chairman, I desire to offer another amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 1, line 7, after the word "packed," insert the words "for sale."

Mr. WINGO. Now, Mr. Chairman, the gentleman from Illinois [Mr. MANN] seems to be so constituted this morning that he thinks everybody is joking about this bill. Now, I am serious, though it requires an effort to be serious about this bill, a joke itself. If the gentleman had had the experience that some of my constituents have had on a similar proposition under a Federal statute he would see the necessity. He says of course they catch them—but who is going to punish the farmer?—that it is intended to catch the big miller. No; the big miller wrote this bill. Now, if you are sincere and you do not want to penalize the farmer, then accept the words "packed for sale." Now, we will see whether you are serious, whether or not you are sincere. Now, that will carry out the gentleman's argument. That will make it what the gentleman from Illinois and what the chairman of the committee himself says they want to do, and it will prevent the doing of what he says they do not intend to do. Of course, nobody wants to do that. Of course, Congress did not intend when it once passed a law to penalize the local selling organizations of peaches, and yet on the platform in my town we almost had a riot among farmers who were incensed by a combination of shippers who were threatening them with a Federal statute that had in it loose language just like this.

If the gentleman lived among agricultural people and knew the problems that confronted them upon the question of shipping and packing and these little cooperative associations, then he would understand that there are some things that are very serious to them that may be a matter of mere levity to the gentleman. Now, if you want to do this, if you think your present laws do not already protect men against fraud, if you think the system as it is to-day does not protect him, all right; but when you are going to the extreme of fixing the size of packages and penalize him for not using that package, for God's sake let us limit it to those packed for public consumption and not when packed for personal or home consumption.

The CHAIRMAN. The time of the gentleman has expired. The vote now comes on the amendment offered by the gentleman from Arkansas [Mr. WINGO].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. VESTAL. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 29, noes 10.

So the amendment was agreed to.

Mr. WINGO. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from South Carolina [Mr. STEVENSON] offers an amendment, which the Clerk will report. The Clerk read as follows:

Amendment by Mr. STEVENSON: Page 1, line 5, after the word "stuffs," insert the words "intended to be used in interstate commerce."

Mr. STEVENSON. Mr. Chairman, the amendment which I have proposed merely makes it conform to what I conceive Congress has the power to do, and that is to regulate the size of packages that enter into interstate commerce. I know that

the contention is made that Congress has the right to regulate the standard of weights and measures. That is true. Now, let us see what that is in the Constitution:

To coin money, to regulate the value thereof and of foreign coin, and to fix the standard of weights and measures.

Now, does that have reference to the size of packages in which people are allowed to sell their stuffs? There was no such question ever conceived by the constitutional convention. They can fix the number of ounces that it will take to make a pound, the number of pounds that it will take to make a ton; they can fix the number of cubic feet that it takes to make a cord, the number of inches in a foot, and the number of feet in a yard.

Now, to say that they can fix the number of tons of coal, for instance, that can be put on one freight train unless it is going into interstate commerce, or on one freight car, is entirely beyond the mark. To say that they can fix the number of pounds which they can put in a package of flour for sale, if it does not go into interstate commerce, is simply regulating a purely State matter and one that Congress has no right to regulate. It has no reference to the fixing of standards of weights and measures.

You take another instance. Under the right to fix the standard of measures they can say how many cubic feet shall go into a cord of wood, but would you undertake to say by congressional legislation that they can fix the number of cubic feet in a load of wood that a farmer could put on his wagon and offer for sale in his own community or town? I submit not. And this is not a regulation of standard of weights nor of measures. It has no relation to either of them. It has relation to the packages in which goods shall be put up, and those packages are measured by weights that are already fixed, and fixed by law.

Now, I submit that Congress has no power to do it. And some reference has been made to the pure food and drugs act. That is put expressly upon the question of interstate commerce, and the prohibitions contained therein are prohibitions against putting those things into interstate commerce. And, therefore, Mr. Chairman, I desire to make this question, because I do not want to be confronted some day with having voted for a measure that the Supreme Court will say is unduly interfering with the local affairs of the States.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN of Illinois. Mr. Chairman, there has been a great deal of controversy for a great many years over the power of Congress in regard to commerce between the States. The language of the Constitution was not very broad or defining. Gradually a great many powers have come to be exercised by the General Government under the commerce clause of the Constitution. But there is no such difficulty in reference to the weights-and-measures provision of the Constitution. The Constitution expressly authorizes Congress to establish standards of weights and measures. Congress has practically the same power, if it chooses to exercise it, over weights and measures that it has over coinage. We have the absolute power. To hold we can only say how many pounds there are in a bushel is a ridiculous proposition.

Mr. STEVENSON. Will the gentleman yield?

Mr. MANN of Illinois. Certainly.

Mr. STEVENSON. The gentleman says that we have the same power over packages of flour as we have over coinage. Can the gentleman explain why it is, then, that explicit authority is given the Government to provide for the punishment of the counterfeiting of the coin in the very next clause and it does not make any provision for violating any regulation over standards of weights and measures?

Mr. MANN of Illinois. That is a provision in reference to counterfeiting. But there is the positive provision that Congress may establish, that Congress is the only power in the Government generally that can establish, standards of weights and measures.

Mr. BENSON. Will the gentleman yield?

Mr. MANN of Illinois. I yield.

Mr. BENSON. Do you think that Congress should pass a bill that puts over 25 gold dollars into a bag?

Mr. MANN of Illinois. I do not know. That is not a pertinent question.

Mr. BENSON. The question here is that they can only put 25 pounds of flour in a bag.

Mr. MANN of Illinois. That is not the question and that is not the bill, either. Congress has the power, under the Constitution, to establish a standard of weights and measures. It can say what shall be the standard of any kind of an article that is put in packages or measures. Now, this is not a new proposition here.

Mr. WALSH. Will the gentleman yield?

Mr. MANN of Illinois. Yes.

Mr. WALSH. Does the gentleman contend that by saying that flour shall be put in a package, weighing a certain number of pounds, Congress is thereby establishing a standard of a measure?

Mr. MANN of Illinois. Why, certainly; that is exactly what it is doing.

Mr. WALSH. What measure is being standardized?

Mr. MANN of Illinois. The standard of measures for flour.

Mr. WALSH. What measure is being standardized?

Mr. MANN of Illinois. The standard of measures for flour. I can not be any more explicit than that. You create a standard of measures. That is what you do.

Mr. WALSH. What measure?

Mr. STEVENSON. Does not this bill recognize that the standard of measure for flour has already been fixed in pounds and undertakes to prescribe how many of those measures shall be put in a package?

Mr. MANN of Illinois. No. It fixes the standard of measure for flour. That is exactly what it does. It fixes how you measure flour, and you sell by measure.

Mr. WALSH. If the gentleman will permit, does it not, as a matter of fact, simply standardize the package and is not a measure at all?

Mr. MANN of Illinois. Well, a package is a measure. No; it standardizes the measure. It creates a measure.

Mr. LAYTON. Mr. Chairman, will the gentleman yield?

Mr. MANN of Illinois. Yes.

Mr. LAYTON. You have got your pounds and quarts and gallons and pecks and half bushels and your bushels. This only just simply establishes the sack of 5, 10, 15, 20 pounds, and so forth. It is on the same line precisely.

Mr. WALSH. That does not establish any standard at all.

Mr. MANN of Illinois. The difficulty the gentleman has is that it is a measure of flour.

The CHAIRMAN. The time of the gentleman from Illinois has expired. The question is on agreeing to the amendment offered by the gentleman from South Carolina [Mr. STEVENSON].

The question was taken, and the Chairman announced that he was in doubt; and on a division (suggested by the Chairman) there were—ayes 29, noes 22.

Mr. MANN of Illinois. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Illinois makes the point of order that there is no quorum present, and the Chair will count. [After counting.] Seventy-five Members are present—not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Alexander	Dupré	Johnson, Ky.	Reavis
Anthony	Eagle	Johnson, S. Dak.	Rowan
Ayres	Ellsworth	Johnston, N. Y.	Rubey
Bacharach	Elston	Jones, Pa.	Sabath
Barbour	Evans, Nev.	Juul	Sanders, Ind.
Barkley	Fairfield	Kahn	Sanders, La.
Black	Ferris	Kendall	Schall
Blackmon	Flood	Kennedy, R. I.	Scott
Bland, Ind.	Frear	King	Scully
Bland, Mo.	Fuller, Mass.	Kraus	Sears
Bland, Va.	Gandy	Kreider	Siegel
Booher	Garland	LaGuardia	Smith, Mich.
Bowers	Garner	Langley	Smith, N. Y.
Briggs	Glynn	Lazaro	Snell
Britten	Godwin, N. C.	Lehlbach	Stedman
Burke	Goldfogle	Luhning	Steele
Candler	Goodall	McClintic	Stephens, Ohio
Cantrill	Gould	McKeown	Stoll
Caraway	Graham, Pa.	McLane	Strong, Kans.
Christopherson	Green, Iowa	Mays	Sullivan
Clark, Fla.	Greene, Mass.	Mead	Summers, Tex.
Classon	Hadley	Merritt	Taylor, Ark.
Cole	Hamill	Miller	Thomas
Collier	Hamilton	Moon	Thompson
Cooper	Harrison	Moore, Pa.	Upshaw
Costello	Haskell	Moore, Va.	Vare
Crisp	Hayes	Morin	Venable
Crowther	Hernandez	Murphy	Voigt
Dallinger	Hersman	Nicholls, S. C.	Volstead
Davey	Hill	Nichols, Mich.	Wason
Dempsey	Houghton	Nolan	Watson, Va.
Denison	Howard	O'Connor	Webster
Dent	Huddleston	Olney	Wheeler
Dewalt	Hudspeth	Osborne	White, Kans.
Dickinson, Iowa	Hulings	Overstreet	Winslow
Donovan	Humphreys	Pell	Wise
Dooling	Igoe	Porter	Young, Tex.
Doremus	Jacoway	Ramseyer	
Dowell	James	Randall, Calif.	

Thereupon the committee rose; and the Speaker having resumed the chair, Mr. Hicks, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (H. R. 9755) to establish the standard of weights and measures for the following wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs, and for

other purposes, and finding itself without a quorum, he had ordered the roll to be called, whereupon 276 Members—a quorum—had answered to their names, and he presented a list of absentees for printing in the Journal.

The SPEAKER. The committee will resume its sitting.

Thereupon the committee resumed its session.

Mr. HUTCHINSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will state that, on the amendment offered by the gentleman from South Carolina [Mr. STEVENSON], a division disclosed the fact that no quorum was present and a point of order that no quorum was present having been made, the committee rose, and the Chair now holds that the vote comes back on the amendment offered by the gentleman from South Carolina [Mr. STEVENSON]. Those in favor of the amendment—

Mr. STEVENSON. Mr. Chairman, I would like to have the amendment reported again.

The CHAIRMAN. Without objection, the Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. STEVENSON: Page 1, line 5, after the word "stuffs," insert "intended to be used in interstate commerce."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that he was in doubt; and on a division (suggested by the Chairman) there were—ayes 56, noes 85.

Mr. STEVENSON. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from South Carolina asks for tellers.

Tellers were ordered, and the Chairman appointed Mr. STEVENSON and Mr. VESTAL to act as tellers.

The committee again divided; and the tellers reported—ayes 64, noes 85.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. HUTCHINSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New Jersey offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HUTCHINSON: Page 1, line 3, after the word "weights," insert "when packed."

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose, and Mr. WALSH having taken the chair as Speaker pro tempore, a message in writing from the President of the United States, by Mr. Sharkey, one of his secretaries, was received.

#### STANDARD OF WEIGHTS AND MEASURES.

The committee resumed its session.

Mr. HUTCHINSON. Mr. Chairman, the object of this amendment is to protect the retailer or the small grocery man. This puts it up to the miller to have the weight according to the bill. But as most of all the products that this bill covers dry out, by reason of the moisture drying out, it is impracticable to keep the weight as packed.

Our friends on the other side say that the Bureau of Standards will tolerate any loss by drying out. We have had some experience in that regard under the food-control act. When the food-control act was before our committee an amendment was offered to the bill introduced to repeal the mixed-flour law, and also to reduce the size of the packages of flour made by the miller, and we finally provided that the miller could make any kind of flour out of wheat. We all know the results of that rule and regulation of the food-control act, and I am sure that we dread this very thing, because, as I said, take flour put up in a 10-pound package and put it in a grocery store behind the stove and it will dry out between 2 and 3 pounds. This bill makes that man liable to a penalty of \$500. This amendment protects him without any question, because it requires that the miller shall have standard weights when packed. I trust that the amendment will be adopted.

Mr. WALSH. I should like to have the amendment read again.

The CHAIRMAN. Without objection, the amendment will be reported again.

The amendment was again read.

Mr. MANN of Illinois. Mr. Chairman, I do not think the amendment offered by the gentleman from New Jersey [Mr. HUTCHINSON] will accomplish the purpose which he desires to accomplish, and I do not think any amendment should be inserted in the bill which will accomplish the purpose that he has in mind.

As I stated the other day, you can not make two packages of exactly the same size, and there is a variation in weight ac-



cording to the moisture content in everything. That is already covered by the provisions in the bill which provide practically that the Bureau of Standards, under the Secretary of Commerce, shall provide for reasonable variations or tolerances, and I assume that in fixing the standard of weight for flour, for instance, the standard will be fixed upon a basis of moisture content, and that variations will be allowed. But if you require the Government to prove the amount of the exact weight at the time an article was packed, of course you know that can not be done. The Government will not have any facilities for obtaining any such proof at all. They can not establish the weight when the article was packed in the mill, and in order to have a workable law you have got to have it so it can be operated and enforced.

Now, if a barrel of flour dries out and the moisture content weighs less, there is no difficulty at all in fixing the variation or tolerance to provide for that, and that is exactly what will be done; but while the Government can establish what the moisture content is at the time the package is weighed it can never establish what the weight was when the article was packed, unless it is weighed by a Government officer at the time it is packed.

All these questions were gone over thoroughly when the matter was up in reference to the pure-food law and the amendments to that law. Originally people insisted that it would be impossible. They used to say that you could not put the same quantity of tomatoes in each of two tomato cans, because there might be a variation in the weight of the tomatoes, an increase in moisture content in one over the other. But there never has been the slightest difficulty in reference to these matters since the tolerances were fixed by the department. As a rule these things are done by averages, and to say that you invite millers to make overmoist flour in order to weigh more heavily would be a grave mistake, but to insert this provision in the bill would be to say that it will be absolutely impracticable to enforce it as a law.

Mr. VESTAL. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. HUTCHINSON].

The amendment was rejected.

The Clerk read as follows:

Sec. 2. That the standard packages for the following wheat-mill and corn-mill products, namely, flour, hominy, grits, and meals, and all commercial feeding stuffs, when the same are packed, shipped, sold, or offered for sale in packages of 5 pounds or over, shall be those containing net avoirdupois weight 100 pounds, or multiples of 100 pounds, or the following fractions thereof: Five, 10, 25, and 50 pounds, and in addition, but for commercial feeding stuffs only, 60, 70, and 80 pounds.

Mr. WALSH. Mr. Chairman, I move to strike out the last two words. I do so for the purpose of directing attention once more to the language of the bill, which, according to my interpretation of it, fails to fix a standard of measure; and while I appreciate that it is rather taking a chance to disagree with the distinguished gentleman from Illinois in his interpretation of language in a measure—because when one does so he generally finds he is on the wrong side—yet I submit that there is nothing in this bill which can be interpreted as fixing a standard.

In 1912 the Congress passed a law fixing the standard barrel for apples and also a standard crate. In fixing the standard it used language as follows:

The standard barrel for apples shall be of the following dimensions when measured without distention of its parts: Length of staves, 28½ inches; diameter of head, 17½ inches; distance between heads, 26 inches; circumference of bulge, 64 inches, outside measurement, representing as nearly as possible 7,056 cubic inches: *Provided*, That the steel barrel containing the interior dimensions provided for shall be construed as a compliance therewith.

Now, that fixed the standard of the package, or of the measure, that measure being the barrel.

It fixed the standard, prescribed dimensions, and fixed its contents. In this bill here we say that a barrel shall weigh 200 pounds, but you could put those 200 pounds into a barrel that would hold 250 pounds, under the language of this bill, simply saying that a barrel of flour shall contain net avoirdupois 200 pounds, and these other various packages shall contain net avoirdupois 5, 10, 25, or 50 pounds, and then for commercial feed-stuffs 60, 70, or 80 pounds.

I can not see where we are standardizing anything except to say that certain packages shall contain net avoirdupois 60 pounds or 25 pounds. But those pounds may be in a package capable of holding very much more. It seems to me that if we are going to fix the standard of a measure we should adopt language similar to that employed in the standard apple barrel bill, in which we stated what the dimensions of the barrel should be and prescribe the distance between the heads and the length of the staves. That bill, as I understand it, either as originally drafted or as afterward amended, provided for variations and

tolerances, just as this does, but I have been unable to find the language in this proposed measure which would prohibit putting 200 pounds of flour into a barrel that might contain 215 pounds or 230 pounds.

Mr. BANKHEAD. Do I understand the logic of the gentleman's position to be that under the guise of exercising a constitutional authority to fix weights and measures this bill, as a matter of fact, exceeds our constitutional authority?

Mr. WALSH. I do not think it does what it purports to do or what it is claimed that it will do, and therefore it does not come within the constitutional provision, in my opinion.

Mr. BEGG. Will the gentleman yield for a question?

Mr. WALSH. Yes.

Mr. BEGG. Is it the intention of the bill to establish a new standard of measurement, or is it intended to fix the number of units of measure of these different ingredients?

Mr. WALSH. If you are going to fix the units of measurement of the ingredients you are not fixing a standard measurement.

Mr. BEGG. I agree that the standard unit of weight is the pound.

Mr. WALSH. I suppose Congress has the right to say that it will fix the standard measure of a barrel of flour of 200 pounds, of the following dimensions, and to provide variations and tolerances, but I have been unable to find in this language, either in section 1 or 2, anything that restricts the container which is supposed to be the standard measure, restricting that to a certain size. It might permit 200 pounds of flour to be put into a barrel that would hold 230 pounds, and still you would say that was the standard measure of flour under this bill.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. WALSH. Yes.

Mr. NEWTON of Minnesota. Is not the aim of this to fix the number of units that must be sold as a barrel and no attempt made to fix the dimensions of the barrel?

Mr. WALSH. Then I do not think you are establishing a standard of weights as is claimed.

Mr. TILSON. Will the gentleman yield?

Mr. WALSH. I will.

Mr. TILSON. Where in the bill does the gentleman find anything about a barrel of flour and weighing 200 pounds? I have studied the bill carefully, and I can not find where it fixes the standard of a barrel of flour at 200 pounds.

Mr. WALSH. One hundred pounds and multiples thereof.

Mr. TILSON. Yes; but it does not mention the barrel or 200 pounds.

Mr. WALSH. I assumed that was the language taken in conjunction with the remarks of the gentleman from Indiana who opened the discussion on the bill, also in conjunction with the tables printed in the RECORD to which he referred. I took it that that was one of the prime purposes and that it was done in that way. If that be not so then you could put up these products in a tube 10 feet long, 4 or 5 inches in diameter, or put it in a big box, or any kind of a package whatever. I think it is a wise thing to standardize the measures. I would like to be assured that the language which is employed here does it. If so, how can it be claimed that this language does it when we standardize the apple barrel by fixing the dimensions of the barrel.

Mr. HARDY of Texas. Will the gentleman yield?

Mr. WALSH. Yes.

Mr. HARDY of Texas. Is it not possible that section 2 instead of being a standard of measures would come under the head of a standard of weights. It is not a standard of measure since there are no actual dimensions.

Mr. WALSH. That is true.

Mr. HARDY of Texas. It is a standard of weight.

Mr. GARD. Mr. Chairman, I offer the following amendment. The Clerk read as follows:

Page 2, line 4, after the word "standard" strike out the word "packages" and insert the word "weights."

Mr. GARD. Mr. Chairman, there has been some criticism that the language of the bill exceeds the constitutional authority conferred on Congress as to fixing weights and measures. Unquestionably we have the right to fix the weight and prescribe the measures. Some criticism has been leveled at the bill because it was contended that we were seeking to provide for a standard package instead of a standard of weight or a standard of measure. The amendment I offer—and I call the attention of the membership of the committee to it—provides that the word "package" be stricken out and the word "weight" put in, so that it will read:

Sec. 2. That the standard weights for the following wheat-mill and corn-mill products, namely, flour, hominy, grits, and meals, and all commercial feeding stuffs, when the same are packed, shipped, sold, or offered for sale in packages of 5 pounds or over, shall—

And so forth.

Mr. GARRETT. Will the gentleman yield?

Mr. GARD. Yes.

Mr. GARRETT. Does not the word "those" in line 8 refer back to the word "packages" in line 4?

Mr. GARD. I think so.

Mr. GARRETT. If that be the case and the gentleman's amendment prevails, would it not be necessary to substitute something for the word "those"?

Mr. GARD. Yes; possibly that is true; but I am convinced that the proposition I have laid down by changing the word "packages" to the word "weights" is putting in better language under the intent and authority of the Constitution.

Mr. MANN of Illinois. Will the gentleman yield?

Mr. GARD. Yes.

Mr. MANN of Illinois. If the gentleman will look down the section he will find that under his amendment it would read like this—

That the standard weights shall be those containing net avoirdupois weight 100 pounds, or multiples of 100 pounds, or the following fractions thereof.

What goes between is simply explanatory.

Mr. GARD (reading)—

That the standard packages for the following wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs, when the same are packed, shipped, sold, or offered for sale in packages of 5 pounds or over.

Mr. MANN of Illinois. That is all explanatory; you skip from "packages," which is the subject, down to the phrase "shall be those containing net avoirdupois weight 100 pounds." That is the predicate.

Mr. GARRETT. In other words, as I attempted to call the attention of the committee, the word "those" in line 8 refers back to "packages" in line 4.

Mr. MANN of Illinois. Certainly.

Mr. GARD. The word "those" could be stricken out.

Mr. MANN of Illinois. It would still be the same thing. The purpose is to establish a standard package.

Mr. GARD. Under the amendment I have offered, and I submit it for the consideration of my fellow members of the committee, it would be necessary, I see, to strike out the word "those" in line 8, so that the amendment as completed would say that the standard weight for certain wheat-mill and corn-mill products when the same are packed, shipped, sold, or offered for sale in packages of 5 pounds or over shall be those containing net avoirdupois weight 100 pounds, and so forth.

Mr. MANN of Illinois. If the gentleman would change it so that he would put it in grammatical terms, still it would read that the standard weight shall contain net avoirdupois weight of 100 pounds. What you want to do is to provide that the package shall contain so many pounds in weight.

Mr. TILSON. Would not the purpose be served by inserting "weight of" between the words "standard and packages," so that it would read "the standard weight of packages"?

Mr. GARD. That might be better.

Mr. GARRETT. Mr. Chairman, as I understand the intention of this section, it is not as was suggested a few moments ago by the gentleman from Texas [Mr. HARDY] and acquiesced in by the gentleman from Massachusetts [Mr. WALSH], namely, that this section was to deal with a standard weight, but it is to fix a standard package.

Mr. WALSH. And measure.

Mr. GARRETT. It seems to me that the purpose is to fix a standard package. If it is to be changed so as to fix a standard weight, if the amendment of the gentleman from Ohio [Mr. GARD] is to prevail, striking out the word "packages" in line 4 and inserting the word "weight," so as to make it a standard weight and not a standard package, I should think that he would want to strike out not only the word "those" in line 8 but also the words "containing net avoirdupois weight." Then the section would read:

That the standard weights for the following wheat-mill and corn-mill products, viz, flours, hominy, grits, and meals, and all commercial feeding stuffs, when the same are packed, shipped, sold, or offered for sale in packages of 5 pounds or over shall be 100 pounds, or multiples of 100 pounds, or the following fractions thereof—

And so forth.

Mr. GARD. Mr. Chairman, I ask unanimous consent to modify the amendment that I have offered by so changing it as to have the amendment authorize the insertion of the words "weight of" before the word "packages" in line 4 and to strike out on lines 8 and 9 the words "those containing net avoirdupois weight."

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to modify his amendment in the manner indicated. Is there objection?

Mr. GARRETT. Mr. Chairman, reserving the right to object, may I suggest to the gentleman that if he strike out the words

"those containing net avoirdupois weight" in lines 8 and 9 it would not be necessary to insert the words "weight of" before the word "packages" in line 4, as he requests. If you insert the word "weight" instead of the word "package" and then strike out the words "those containing net avoirdupois weight," the section will read:

That the standard weight for the following wheat-mill \* \* \* and all commercial feeding stuffs \* \* \* shall be 100 pounds—

And so forth.

Mr. GARD. I prefer to have the weight refer to packages, and I think probably the language that I offer more completely expresses my desire.

The CHAIRMAN. In order that the Members may clearly understand the amendment, without objection the Clerk will read the amendment.

Mr. MANN of Illinois. But it has not yet been reported as modified.

The CHAIRMAN. The first amendment was reported. The gentleman from Ohio then asked unanimous consent to modify it, and the Chair now suggests that the whole amendment as modified be read for the information of the Members. Is there objection?

There was no objection.

The Clerk read as follows:

Modified amendment offered by Mr. GARD: Page 2, line 4, after the word "standard," insert the words "weight of," and in lines 8 and 9 100 pounds or the following fractions thereof.

Mr. MANN of Illinois. Mr. Chairman, I do not quite get what this does yet, but I know that it entirely changes the purpose of the section. The purpose of this section is to fix a standard measurement in which flour shall be put—

Mr. GARD. Package.

Mr. MANN of Illinois. Oh, well, a package is a measure. That is what a package is, an inclosure in a measure. The purpose is to fix the standard of measure. I do not see what is accomplished by saying that 100 pounds of flour shall contain 100 pounds. Everybody knows that 100 pounds of flour weighs 100 pounds, and that is all it amounts to.

Mr. GARD. No; it will not. This is the way that it will read if the amendment prevails:

That the standard weight of packages for the following wheat-mill and corn-mill products \* \* \* shall be 100 pounds or multiples of 100 pounds or the following fractions thereof.

In other words, it gives a complete expression to what I assume was the legislative intent to prescribe a weight for a package, since that is what is carried out in the latter part of the bill. It is true, as I read upon more serious consideration of section 2, that it applies to a package, but nevertheless that which is proposed to apply to the package as contained in the latter part of section 2 is to designate its weight, because as section 2 now is it provides that these packages of 5 pounds or more shall be of weights of 100 pounds or multiples or fractions thereof.

Mr. MANN of Illinois. Yes; but section 2 is to establish the size of a package.

Mr. GARD. Not the size of a package; the weight of a package.

Mr. MANN of Illinois. Absolutely the size of the package.

Mr. GARD. Oh, no.

Mr. MANN of Illinois. It is to establish the size, not the weight of the package. One package may weigh 10 pounds and another half a pound, but the purpose of section 2 is to establish the size of the package. It establishes the size of the package by the weight of the flour that goes into it. The package may be empty. Section 3 then provides that the size of the packages shall be used in packing flour.

Mr. GARD. Section 3 is a penalty section.

Mr. MANN of Illinois. It is more than a penalty section.

Mr. GARD. I do not think it is.

Mr. MANN of Illinois. There is a provision in section 3 against the use of other sizes of packages. Section 2 establishes the size of the package. The gentleman from Massachusetts [Mr. WALSH] said this bill did not establish the size of a package. This says that a certain package shall be one that will contain 100 pounds of flour. It does not say it in quite that language, but it says "containing 100 pounds of flour" and another containing 5 pounds of flour. That is the size of the package, and that is the standard of measure. That is exactly what the bill is to accomplish.

Mr. GARD. There is no designation of size, except the size as determined by the weight inclosed in the package.

Mr. MANN of Illinois. Oh, certainly; but that 100 pounds of flour will be the same size if put in a bag, a box, a barrel, or other container.

Mr. GARD. Oh, no. I can see where 100 pounds in a bag or a sack might be an entirely different size as we understand the word "size"—



Mr. MANN of Illinois. Oh, no; it would occupy the same amount of space and that is a question of size.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. TREADWAY. Mr. Chairman, I move that all debate on this section and all amendments thereto be now closed.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. GARD].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 3. That it shall be unlawful for any person, firm, corporation, or association to pack, or cause to be packed, to ship or offer for shipment, or to sell, or offer for sale, the following wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs, which, when in package form, shall not be one of the standard sizes established in section 2 hereof and bear a plain, legible, and conspicuous statement of the net weight contained therein; and any person, firm, corporation, or association guilty of a violation of the provisions of this act shall be deemed guilty of a misdemeanor and be liable to a fine not exceeding \$500 in a court of the United States having jurisdiction.

Mr. WALSH. Mr. Chairman, I move to strike out the last word—

Mr. GARD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARD. Is it proper procedure to correct the text of the bill before striking out the last word?

Mr. WALSH. This is perfecting it.

The CHAIRMAN. Did the gentleman from Ohio have a perfecting amendment?

Mr. WALSH. That does not give priority of recognition.

The CHAIRMAN. The Chair will rule that, having recognized the gentleman from Massachusetts, the gentleman from Massachusetts can proceed.

Mr. WALSH. Mr. Chairman, I desire to ask the gentleman having this measure in charge if the language on page 3, lines 1 and 2, means that prosecutions for violations of this act are confined to the Federal courts?

Mr. VESTAL. I think so; certainly.

Mr. WALSH. And it is not intended to provide any punishment other than a fine, no matter how often and how grossly this act may have been violated?

Mr. VESTAL. I think that is the plain language of the bill and shows it.

Mr. WALSH. Well, the reason I asked the question was that certain intentions have been ascribed to this measure from the language which it contains which I have been unable to find are borne out by a reading of the bill, and I would like to ask the gentleman if he does not think the penalty here for violating the provisions of section 2 ought to be more severe for a second or third offense?

Mr. VESTAL. The language of the bill provides that the fine shall not exceed \$500, but the fine for the first offense might be \$50 or \$100.

Mr. WALSH. I will ask unanimous consent to withdraw the pro forma amendment, and yield the floor.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GARRETT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, lines 15 and 16, after the word "association," strike out the words "to pack or cause to be packed, to ship or offer for shipment, or."

Mr. GARRETT. Mr. Chairman, as one who is in sympathy with proper legislation upon the subject matter of the bill, I wish to ask the particular attention of the committee having it in charge to that amendment. I think that all the beneficial purposes of this legislation can be accomplished with that language omitted. What the committee desires to do evidently is to bring about uniformity for the purpose of commerce. It is for the convenience of the public, the producers and consumers alike, that this bill is designed. But if this language which I move to have stricken out is retained in the bill, it seems to me that it may cause a great deal of annoyance without accomplishing any good purpose whatever. What harm can there possibly be in putting these materials in packages other than the standard size if those packages are not placed on the market in any way? If some one desires to send to a friend or a member of his family in another State or another town a sack of flour or barrel of flour as a gift, not for sale, not in a commercial way, what harm can there possibly be in permitting the sending or giving it away in any size package he may desire? I ask the gentleman, will not the purpose of the bill be accomplished with that language left out? But as it is now, if some person down in my country, if there were any who would have such a kind thought, desired to send me a barrel of flour or a sack of flour, why, he

would have to go out and hunt up a package, a container, of the standard size in order to ship it to me. It occurs to me no good purpose can be served by requiring that, and you have accomplished everything that is necessary if you have protected the commerce of the country.

Mr. VESTAL. Mr. Chairman, it does not seem to me, I will say to the gentleman from Tennessee, that the language in this bill as it is drawn will bear out the construction that the gentleman gives it. It is not for the purpose of affecting a private person who wants to give somebody a package of flour or meal, but it is for the purpose of taking care of the miller or manufacturer who is packing or offering to pack or causing to pack or offering to ship or shipping these different packages. Now, it seems to me we ought to get right at the root of the thing so as to prevent the manufacturer from putting up in packages other than the packages provided for under his bill.

Mr. GARRETT. Will the gentleman yield?

Mr. VESTAL. I will yield.

Mr. GARRETT. I am in perfect sympathy with that. I think the manufacturers themselves would desire that. Let me call the attention of the gentleman—and I think it is worthy of very serious attention. This says that it shall be unlawful for any person, firm, and so forth, "to pack or cause to be packed." This, literally construed, would mean that the individual could not carry his own turn of wheat to the mill and have it ground and let it be packed in other than the standard package, even though for his own use. There is not any doubt about that if this language is literally construed; and that is not intended by the committee, I am sure, but that is what it says.

Mr. FESS. If the gentleman will yield, I would like to ask the gentleman from Tennessee whether, in line 19, there is any saving clause, "when in package form"?

Mr. GARRETT. That refers to commercial feed stuffs when in package form; and the way I construe it, if this language is left in the bill—and, I repeat, I am speaking as one friendly to the legislation—it will be absolutely an offense for a man to pack the materials that are involved in the bill in anything except a standard package, even though it is not intended to be offered for sale or shipment.

Mr. BEGG. Will the gentleman yield?

Mr. GARRETT. The gentleman from Indiana [Mr. VESTAL] has the floor.

Mr. VESTAL. I will yield to the gentleman from Ohio.

Mr. BEGG. I would suggest to the chairman of the committee that he can cure the supposed ills of the gentleman's contention if he will add the words "for sale" in line 15, after the word "packed," so that it will read:

Or association to pack, or cause to be packed, for sale.

That will care for the proposition you are raising, will it not?

Mr. GARRETT. Perhaps; then, down further, there ought to be the same words after "shipment."

Mr. BEGG. That is true.

Mr. GARRETT. That might meet the situation.

Mr. WALSH. Will the gentleman yield?

Mr. GARRETT. I will.

Mr. WALSH. The gentleman from Tennessee uses the term "standard package." Does the gentleman think we have any right to establish a standard package?

Mr. GARRETT. Well, I do not know. We have the right to establish standard weights and measures. A package, I suppose, is, in a sense, a measure.

Mr. WALSH. It is constantly referred to as "standard package."

Mr. GARRETT. The word "package" is used in section 2.

Mr. WALSH. It certainly is.

Mr. GARRETT. And I am meeting the condition that is set forth by the language of the bill.

Mr. MANN of Illinois. Mr. Chairman, the gentleman from Tennessee wants to strike out the packing and shipping provisions, as I understood him? That was his amendment?

Mr. GARRETT. Yes, sir.

Mr. MANN of Illinois. What is the point in striking out the shipping provision?

Mr. GARRETT. Well, because I do not think that there is any necessity, unless it is in commerce, for fixing the size of the package in which it shall be shipped.

Mr. MANN of Illinois. But here, after all, is the situation about all these things. Possibly it would cover the case if you would simply provide in reference to the package for sale. But once in a while there may be a prosecution under a law like this. The whole theory of our legislation for years has been to so provide as not to encourage prosecution against the little fellow, but to encourage, if prosecution is to be had, that it shall be against the man behind.

Mr. GARRETT. Yes.

Mr. MANN of Illinois. Now, nobody wants the retail dealer handling flour that is short in weight to be prosecuted. It never has been the policy of the departments in forcing these laws to go after that man. They go after the man who has sold to him and go back, if they can, to the man who produced it in the first instance, such as the manufacturer. They are the fellows we ought to get.

Now, they are not guilty. Oh, they may have been guilty of sales. You frequently want to catch them if they have a carload of stuff before it gets into the hands of the retailer. They ought to be subject to the prosecution. Now, as a matter of fact, of course, if a law of this sort is passed there probably will not be very many prosecutions if the miller feels that he is obliged to follow the law. Let us make him obliged to follow the law. If you insert the words "for sale" after the word "packed," it seems to me it would cover the objection offered by the gentleman from Tennessee, but to say that they shall be inserted also after the word "shipment" does not mean anything.

Mr. GARRETT. I did not myself suggest that it should be inserted after the word "shipment." Merely being on my feet, and inquiry being made about whether if it were inserted after the word "packed" in line 15 it would meet the condition, I said it might require some additional amendment further on; that that would meet the situation. That is all I am interested in doing.

Mr. MANN of Illinois. I understand.

Mr. GARRETT. I do not think anybody wants innocent people to be subjected to the possibility even of annoyance.

Mr. MANN of Illinois. Of course not.

Mr. LAYTON. I just want to ask a question for a little information. Suppose, for instance, I want to ship to a son or a relative some miles away from where I live. This now says it is unlawful, if I offer for shipment, unless it is in a standard package. Suppose I want to send 95½ pounds of buckwheat for winter use, am I making a breach of law?

Mr. MANN of Illinois. If you want to send 95½ pounds of buckwheat to somebody, you ought to have another guess coming. What sense would there be in weighing out 95½ pounds of buckwheat?

Mr. LAYTON. The sense would be this, that I would not be measuring my buckwheat when I was giving it away.

Mr. GARRETT. Or if you wanted to ship it to a friend.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GARRETT. Mr. Chairman, I ask unanimous consent for five minutes more, so that we can get this matter worked out.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to be allowed to proceed for five minutes. Is there objection to the request?

There was no objection.

Mr. VESTAL. I think if the words "for sale" were placed after the word "packed," it would probably accomplish what the gentleman wants. It would read "or cause to be packed for sale."

Mr. GARRETT. I think that amendment meets the situation in part.

Mr. LAYTON. I think it would meet both, because it is to be packed before it is shipped.

Mr. GARRETT. Probably that might be true. I ask unanimous consent, Mr. Chairman, to withdraw my amendment. Let the gentleman offer that amendment.

Mr. VESTAL. Mr. Chairman, I offer it.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to withdraw his amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. VESTAL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. VESTAL: Page 2, line 15, after the word "packed," insert the words "for sale."

The CHAIRMAN. Does the gentleman from Indiana desire to be heard on the amendment?

Mr. VESTAL. I ask for a vote.

The CHAIRMAN. The vote comes on the amendment offered by the gentleman from Indiana.

The question was taken, and the amendment was agreed to.

Mr. GARD. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GARD: Page 2, line 19, after the word "in," insert the words "original unbroken."

The CHAIRMAN. The gentleman from Ohio is recognized for five minutes.

Mr. GARD. Mr. Chairman and gentlemen of the committee, in the discussion in general debate on this bill questions were asked as to whether a grocer, for instance, who had purchased a barrel of flour could sell an amount of flour to a customer other than 5 pounds, 10 pounds, or any other fractional number of pounds authorized by this bill. It is to protect the sale in small amounts, or broken amounts, if one may use that word, to the consumer that I have offered this amendment, which is taken from the rules and regulations as to unbroken packages. I read from the laws relative to the control of food, regulation 2 as it appears on page 100 of the compilation that I have in my hand, which provides that—

The term "original unbroken package" as used in this act is the original package, carton, case, can, box, barrel, bottle, phial, or other receptacle put up by the manufacturer, to which the label is attached, or which may be suitable for the attachment of a label, making one complete package of the food or drug article. The original package contemplated includes both the wholesale and retail package.

Now, it is my idea that this amendment takes care and provides merely that it shall be in the original unbroken wholesale package as it comes to one who may afterwards sell to the retail trade. If the amendment is not included, this section 3 is open, at least, to the technical accusation that every package offered for sale, no matter where it may be or by whom, shall be one of the standard sizes established in section 2. It would seem to me that the purpose would be manifestly and properly carried out if the standard sizes set out in section 2 were the sizes made for shipment by the original manufacturer or wholesaler, so that when the package was put up at the place where it was manufactured it should be of the standard size and should contain the standard weight as set out on page 2, and for that purpose I offer the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Ohio.

The question was taken, and the Chairman announced that the ayes appeared to have it.

Mr. BLANTON. Mr. Chairman, I ask for a division.

The CHAIRMAN. The gentleman from Texas asks for a division.

The committee divided; and there were—ayes 21, noes 0.

So the amendment was agreed to.

Mr. WALSH. Mr. Chairman, I offer the following amendment: On line 20, after the word "standard," strike out the word "sizes" and insert the word "measures."

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WALSH: Page 2, line 20, after the word "standard" strike out the word "sizes" and insert in lieu thereof the word "measures."

Mr. WALSH. Mr. Chairman, in view of the fact that this bill purports to fix standards of measures, I think we would clarify the language in section 3 if we should recognize, at least in the section fixing the penalty, that we are attempting to do that which the Constitution permits us to do. In trying to establish a standard package we should make it clear that we are establishing a standard of measurement.

Now, the gentleman from Illinois [Mr. MANN] suggests that "a rose by any other name may smell as sweet." It may be true; but the language of the Constitution is specific, and I think we might well follow that phraseology.

I want to direct the attention of the committee to another act of Congress whereby we fixed the standard of measure. In passing the act of March 4, 1915, known as the "standard fruit and vegetable barrel law," we provided that the length of staves should be 28 inches and the diameter of the head and the distance between the heads and the thickness of the staves should be so much, and then provided that even though we fixed that as a standard, any barrel of a different form which had a capacity of 7,056 cubic inches should be considered as a standard barrel. Then we fixed the dimensions, size, cubic contents, and thickness of the staves of the barrel of cranberries, which are a product which makes a certain portion of my district famous, and in that respect we followed the precedent when we established a standard apple barrel bill, and there is an entire absence of any such detail in this legislation.

For that reason I think this amendment ought to appeal to gentlemen who are anxious that a standard shall be known, definite, and fixed. Let us make it clear that we are not establishing a standard of weight but a standard of measure.

Mr. WELLING. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Yes.



Mr. WELLING. If you changed the word "sizes," in line 20, to "measures," you would then refer to the measures presumably established in section 2. Will you please point out where any measures are established in section 2?

Mr. WALSH. Well, I think myself that I have not changed my mind since I discussed section 2 with the gentleman from Illinois [Mr. MANN]. We have not definitely fixed any measure in section 2.

Mr. WELLING. You have fixed weights in section 2.

Mr. WALSH. We have fixed containers—standard packages.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. WELLING. Mr. Chairman, I ask unanimous consent that the gentleman may have two minutes more.

The CHAIRMAN. The gentleman from Utah asks unanimous consent that the gentleman from Massachusetts may have two minutes more. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts is recognized for two minutes more.

Mr. WELLING. We have fixed weights at least in section 2—standard weights. Would not the gentleman be willing to substitute "weights" for "measures" on line 20? Would he not be willing to substitute the word "measures" in place of the present word "sizes"?

Mr. WALSH. I do not think we have fixed any standard weights in section 2.

Mr. WELLING. We refer to them.

Mr. WALSH. We refer to standard packages. We have not fixed any standard weights in section 2. The standard of weights has already been fixed.

Mr. WELLING. In section 2 it is provided that they "shall be those containing net avoirdupois weight 100 pounds, or multiples of 100 pounds or the following fractions thereof: 5, 10, 25, and 50 pounds, and, in addition, but for commercial feeding stuffs only, 60, 70, and 80 pounds."

Mr. WALSH. That is the content of a standard package.

Mr. WELLING. No. A standard package is prescribed.

Mr. WALSH. That is the content of a standard package.

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. GARRETT. Mr. Chairman, will the gentleman yield there?

Mr. WALSH. I will, if I have any time left.

Mr. GARRETT. It seems to me that the gentleman's amendment would be still happier by using the word "packages."

Mr. WALSH. I think it would be very unsafe to use "standard packages." I contend that we have not the right to establish standard packages, but we have the right to establish standard measures.

Mr. TREADWAY. Mr. Chairman, I rise to oppose the amendment.

The CHAIRMAN. The gentleman from Massachusetts is recognized for five minutes.

Mr. TREADWAY. Mr. Chairman, I think it is of very little consequence whether we use the word "size" or the word "measure." I would like, however, to call attention to the fact that for two days, now, the House of Representatives has been devoting its time to legislation contained in this bill of four pages. We have managed to finish up two pages. Now, if we have not any more important business before us than a bill of this nature, to take up two days of the time of the House of Representatives, I suggest that we recess for a week or two, and let us get caught up with our committee work. [Applause.]

Mr. BLANTON. I suggest that the gentleman come over and sit with us. [Laughter.]

Mr. TREADWAY. I am not a member of the steering committee, and I do not want to criticize that committee or offer any criticism about any individuals, but it does seem to me that the playful manner in which this discussion has gone along for two days is quite manifest. My colleague from Massachusetts, Mr. WALSH, is one of the ablest men in consuming time when he knows that that is the only object, to kill time. He is very clever at it. [Laughter.]

The amendment under consideration is an indication of his ability along that line. But in all seriousness I do want to suggest to the House that Members of Congress have work to do in addition to sitting here on the floor. But we are criticized if we are not here on the floor when the House is in session. If there is nothing better to do than to occupy two days with a bill of this nature and importance, I say let us recess and catch up with our office work three days at a time. [Applause.]

Mr. SAUNDERS of Virginia. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman from Indiana [Mr. VESTAL] a question for information. Suppose I purchase from my grocer in the little village where I live,

12 pounds of hominy. How would that grocer send the amount of that purchase to me?

Mr. VESTAL. I do not know how he would send it.

Mr. SAUNDERS of Virginia. What sort of a package would he put it in?

Mr. VESTAL. I could not tell the gentleman what sort of a package he would put it in, because I do not know the gentleman's grocer, and I do not know what kind of packages he is in the habit of using.

Mr. SAUNDERS of Virginia. I am supposing that my grocer is conforming his business to this proposed statute. Under the terms of this law how would that grocer send me 12 pounds of grits, or hominy, that is to say what sort of package or container would he be compelled to use?

Mr. VESTAL. I do not know anything in this law that would prevent him from sending 12 pounds of hominy in any way he chose.

Mr. SAUNDERS of Virginia. Let us see.

Sec. 3. That it shall be unlawful for any person, firm, corporation, or association to pack, or cause to be packed, to ship or offer for shipment, or to sell, or offer for sale, the following wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs, which, when in package form, shall not be one of the standard sizes established in section 2 hereof and bear a plain, legible, and conspicuous statement of the net weight contained therein.

Now this section prescribes standard packages, or containers—and there is no 12-pound package, or 2-pound package.

The food must be in a package when he sends it to me, whether that be a box, or bag. I repeat my question. How would that grocer send me 12 pounds of hominy, having in mind that it must be dispatched in a package, or packages, designated as standard? Would he send it to me in a 15-pound container bearing an inscription showing that the contents were only 12 pounds? The bill does not give him that authority. What would he do, in order to be on the safe side of the law?

Mr. MANN of Illinois. I want to ask the gentleman a question.

Mr. SAUNDERS of Virginia. I would like to have my question answered by the gentleman from Indiana.

Mr. MANN of Illinois. The gentleman from Indiana answered the question.

Mr. SAUNDERS of Virginia. How did he answer it?

Mr. MANN of Illinois. That there was nothing in this law that would affect it.

Mr. SAUNDERS of Virginia. Is it the answer of the gentleman from Indiana that the grocer can send me 12 pounds in a 15-pound container?

Mr. VESTAL. He can send it to you in a tub if he wants to, or a washbowl.

Mr. LAYTON. Or an egg box.

Mr. MANN of Illinois. Would the gentleman permit his grocer to send him 12 pounds of hominy loose out of a barrel, or something of that sort?

Mr. SAUNDERS of Virginia. Certainly, just as your grocer sends you 12 pounds of sugar loose out of a barrel. The gentleman's question does not indicate that he is very familiar with the way in which business is done by grocers handling small orders.

Mr. MANN of Illinois. In my part of the country they do not permit that sort of thing, in the interest of pure food and the public health.

Mr. SAUNDERS of Virginia. Well in the country if a customer asks for sugar, the grocer goes to his barrel, and weighs it out. If you make an order, he weighs it from his barrel, and sends it to you in a bundle. That is the ordinary, customary way in which the business is done. But under this bill, in the case suggested, and it is one that will often arise, whenever you order an odd number of pounds of a mill product, the grocer will not know how to send the goods, and at the same time be within the terms of this act. You may say that there will be no prosecutions upon the state of facts supposed. That presents another question. The grocer may be willing to take a chance on being prosecuted, but that does not answer my question. Either he can, or can not send the goods in a 12-pound bundle. If the law does not give him the authority to fill a 12-pound order, by sending it in a 12-pound sack, or other container, or in a larger container suitably marked to show the actual contents, then when he undertakes to do so, he violates the law and is subject to prosecution, whether or not an actual prosecution ensues. It seems to me that the only thing he can do, as the law is worded, will be to ignore my order, and send me a standard package or packages of goods that will approximate as to weight most nearly to that order.

Mr. WINGO. Mr. Chairman, it has been frankly admitted that the legal effect of this bill is to make it illegal to put up any of these articles in irregular containers, but it is said that

nobody would want to prosecute an innocent man. In other words, you propose to make it a criminal offense for the housewife to do this, in order to catch the big miller who wrote the bill.

Mr. SAUNDERS of Virginia. That is a pitiful confession for the friends of this measure to make, that it is necessary to write a law in such terms that the usual things done in ordinary, everyday business, will be illegal, in the hope of discouraging, or deterring illegal practices on a larger scale. If that indeed is the attitude of the members of the committee which fathers this bill, then they are entitled to our sympathy.

The CHAIRMAN. The question is on the amendment of the gentleman from Massachusetts [Mr. WALSH].

The amendment was agreed to.

Mr. BANKHEAD. Mr. Chairman, I offer an amendment in lines 1 and 2, page 3, to strike out the words "in a court of the United States having jurisdiction."

The CHAIRMAN. The gentleman from Alabama offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. BANKHEAD moves to amend line 1, page 3, after the figures "\$500," by striking out the words "in a court of the United States having jurisdiction."

Mr. BANKHEAD. Mr. Chairman, I suggest this amendment for the reason that as a matter of course a violation of this statute could not be taken jurisdiction of in any other forum except a court of the United States having jurisdiction. It seems to me in the interest of good verbiage and good construction these words which appear in the bill are absolutely unnecessary and that they may be stricken out, because as a matter of fact any prosecution would have to be in a district court of the United States in the first instance. It seems to me that the language—

Shall be deemed guilty of a misdemeanor and be liable to a fine not exceeding \$500—

should end the sentence.

Mr. WINGO. Mr. Chairman, I think it is unfortunate that the gentlemen in charge of the bill do not recognize the plain meaning of the language that they have used. I think also it would be more fortunate if some gentlemen who have attempted to defend the bill were more familiar with country life and with the habits of people who live in small communities. For illustration, following the suggestion of the gentleman from Virginia [Mr. SAUNDERS], section 3 provides—

That it shall be unlawful for any person, firm, corporation, or association to pack.

Now, let us paraphrase a little bit, and instead of saying—

Unlawful for any person, firm, corporation, or association—

let us take the individual farm wife who packs great quantities of hominy at one time. There are some cities of the country where it is poisonous to expose anything to the public gaze, and they think it is terrible for a farm wife to do what all farm wives do, and what those familiar with farm life know they do when they make hominy in large quantities. It is the best hominy on earth, far superior to this stuff that you can get in the city markets.

Mr. LAYTON. Undoubtedly.

Mr. WINGO. Now, let us paraphrase a little—

That it shall be unlawful for any housewife \* \* \* to pack hominy.

In other words, if she does not pack her hominy in one of these packages they can hale her into court. Gentlemen say we have got to do that in order to prevent fraud on the part of the large miller. I am not interested in the solicitude of the large miller to protect the public against fraud, because the miller is the author of the bill. But gentlemen say that no district attorney, nor the Department of Justice, would prosecute the farmer who packs feed in sacks that are not of standard size, nor the housewife who packs hominy in nonstandard containers; that we can depend on the Department of Justice not to prosecute. Oh, we have had things like that, and it is a cause of trouble all the time. I had a case this morning where a little fellow runs the mail line and has to climb mountains with a Ford car, running between two trunk railways. It takes two days to go and return. A representative of the Government came around and said, "You have got to pay a tax; you are running in competition with the railway." Now, what has happened? I have got to send that man an affidavit, he has got to swear to it, and I have got to go and tell the department that there is no competition. In other words, you turn the Government agents into a judicial tribunal. God deliver us from a Government by agents and representatives going snooping around over the country. We have too much of that. If you want to fix a bill that will standardize the size of commercial products, you can say so in plain language—products that go into interstate commerce and that are put up for general con-

sumption. You could do that, if you have not already gone far enough. You overlook the present law that protects a man from defective weight, impure stuff, but if you think it is more delectable and better for the public health and better for everything else that he must have it in certain sized packages, say so, and that it is for commercial transactions and not little transactions.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. WINGO. I ask unanimous consent for 5 minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GARRETT. Will the gentleman yield?

Mr. WINGO. Yes.

Mr. GARRETT. I desire to call the attention of the gentleman from Arkansas to the fact that an amendment has been adopted in line 15, after the word "pack," to insert the words "for sale."

Mr. WINGO. I am glad that that was offered. I was out of the Chamber for a few moments eating lunch.

Mr. GARRETT. I think the gentleman from Virginia [Mr. SAUNDERS] raised a very serious question, and the gentleman from Arkansas has also raised a serious question, if it had not been that this amendment was adopted.

Mr. WINGO. As I understand the gentleman, the words "for sale" have been inserted after the word "pack."

Mr. GARRETT. Yes; that it shall not be packed for sale.

Mr. WINGO. Let us see. Frequently the farmer's wife makes hominy in my country and sends it to town for sale. If she packs it and sends it to town for sale she would have to pack it in a standard container.

Mr. GARRETT. Yes; it probably ought not to be, but I think that is true. The suggestion of the gentleman from Virginia, I hope, was met in a measure by the amendment proposed by the gentleman from Ohio [Mr. GARD].

Mr. SAUNDERS of Virginia. Will the gentleman yield in that connection?

Mr. WINGO. I will yield.

Mr. SAUNDERS of Virginia. I had in mind an amendment to meet that suggestion and I went to the desk to find if any amendment had been adopted in that line. If the gentleman from Indiana had been aware of that amendment he would have been in a position to answer my question.

Mr. VESTAL. If the gentleman had been on the floor he would have known of the amendment.

Mr. WINGO. The gentleman from Virginia should not be too severe on the gentleman from Indiana. He suggested that the hominy might be packed in a tub. Now, I do not know what kind of a tub they have in Indiana, but in my part of the country a tub could not be used for ground sorghum stalks or ground feed, and would not be considered a proper receptacle for packing hominy.

Mr. McLAUGHLIN of Michigan was recognized.

Mr. VESTAL. Mr. Chairman, I ask unanimous consent that all debate on this section and amendments thereto close in 10 minutes.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that all debate on this section and amendments thereto close in 10 minutes. Is there objection?

Mr. SAUNDERS of Virginia. Reserving the right to object, I would like to have five minutes.

Mr. VESTAL. I will make it 15 minutes, Mr. Chairman.

The CHAIRMAN. The gentleman modifies his request and makes it 15 minutes instead of 10. Is there objection?

There was no objection.

Mr. BANKHEAD. Mr. Chairman, is not the regular order a vote on the amendment that I offered? I think debate has been exhausted on that amendment.

The CHAIRMAN. The Chair apologizes to the gentleman from Alabama. The question is the amendment offered by the gentleman from Alabama.

The question was taken, and the Chairman announced that the yeas had it.

Mr. BANKHEAD. Mr. Chairman, inasmuch as I only heard one vote in the negative and two or three in the affirmative, I ask for a division.

The committee divided; and there were 25 yeas and 19 noes.

So the amendment was agreed to.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I wish to call the attention of the committee to the use of two small words that I think is wrong. This is a criminal statute and must be strictly construed. We find in line 17, on page 2, the following language:

It shall be unlawful for any person, firm, corporation, etc., to pack, or cause to be packed, etc., the following wheat-mill and corn-mill products, etc.



I think the word "and," in line 17, should be "or"; otherwise, in case of arrest and prosecution, unless it can be shown that the defendant has both packed and shipped—that is, unless he has violated all these provisions or in all respects—it will not be possible to convict him. In line 18 the word "and" occurs after the word "grits" and also after the word "meals," and if a man is to be prosecuted it must be shown that he is guilty of selling wheat-mill products and corn-mill products and commercial feed products. I think the word "and" should be changed to "or." I have had some experience in drawing indictments, and I have had some experience in prosecuting under criminal statutes. I have also had a little experience here in drafting statutes to which criminal penalties are attached, and in my judgment the several different things that are hereby made unlawful should be connected, or rather separated, by the word "or"; they should not be connected by the word "and."

I would never draw a criminal statute in the way in which this one is drawn.

Mr. VESTAL. Mr. Chairman, the gentleman will find that following the words "wheat-mill and corn-mill products" the various things are specifically named.

Mr. McLAUGHLIN of Michigan. But they are not the same; they are different products. One might violate respecting one and not the other. As the section is now drawn, in order to convict a defendant, it must be shown that he has violated respecting all of them; and the same is true in line 18 in respect to commercial feeding stuffs.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. McLAUGHLIN of Michigan. Yes.

Mr. WINGO. The language "and all commercial feeding stuffs" is purely surplusage. The courts would hold that you are limited to the divisions named—flour, hominy, grits, and meals. The court has decided that question time and time again. That is surplusage. This is a penal statute, and you would have to show it was either flour, hominy, grits, or meals, because you have undertaken to set out certain classes, and where you have named the classes that excludes all others.

Mr. McLAUGHLIN of Michigan. The naming of certain things excludes others that are not named; that is true, but a man may violate respecting one of these things when he is not violating another.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. McLAUGHLIN of Michigan. You would have to put it all into the indictment, and by your proof you could not show his guilt. I yield to the gentleman from Texas.

Mr. BLANTON. Following the criticism made by the gentleman from Massachusetts [Mr. TREADWAY], I would like to ask the gentleman whether, inasmuch as this bill deals with chicken-feed containers, he would designate this as chicken-feed legislation?

Mr. McLAUGHLIN of Michigan. I would characterize some of the criticisms as chicken-feed criticisms by those who wish to attract attention to themselves as being more industrious and virtuous than others. I think this is an important bill, but if it is passed in its present form it will contain serious faults, in my judgment. I agree with the criticism of the gentleman from Arkansas [Mr. WINGO] respecting it. It is carelessly and improperly drafted. There ought to be some amendments, and I am suggesting one that I think is pertinent and necessary. It can be laughed out of court, as some of the gentlemen have tried to laugh away some of the amendments offered, like the criticism made by the gentleman from Virginia [Mr. SAUNDERS] when he points out that it will be impossible for a man to buy 8 pounds of hominy. He must buy a "standard" package containing 10 pounds, otherwise he and the merchant who sold it to him would both be subject to prosecution. He raised that question and he was laughed out of court, but he was right.

Mr. HARDY of Texas. Mr. Chairman, will the gentleman yield?

Mr. McLAUGHLIN of Michigan. Yes.

Mr. HARDY of Texas. Would it not be better to strike out "wheat-mill and corn-mill products" and just say "flour and meal products, namely?"

Mr. McLAUGHLIN of Michigan. It should read, "Any of the following mill products," and not all of them. Otherwise a man could not be convicted unless he had violated the statute respecting all of them. That is my criticism.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CONNALLY. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 3, after the figures "\$500," insert the following: "By the term 'in original unbroken package form,' as used in this act, is meant any form of original package or carton or other container made

or prepared to contain products for sale in such original package or other container and purporting to contain any specific weight or measure."

Mr. CONNALLY. Mr. Chairman, the purpose for which I offer this amendment is to obviate some of the objectionable features that have been pointed out by the gentleman from Arkansas [Mr. WINGO] and others in respect to inhibiting the farmer or the farm wife from packing and selling products in whatever available vessels or containers may be at hand. The bill has already been amended in section 3 to provide that these acts which are denounced shall be unlawful only when goods are packed for sale in original, unbroken package form. Under the amendment I propose that term is defined so that if this amendment is adopted the merchant could sell 3 or 6 or 8 or 9 pounds of any product in his store without violating the law, unless that product was packed in an original box or carton or package which was manufactured to contain such article and purported to contain a specific number of pounds. So that under the terms of the amendment a farm wife could sell the hominy that is home manufactured in any kind of container, so long as that container was not specifically manufactured to contain some particular number of pounds of hominy, or was not manufactured for use in containing such article in an original package. In the event such a package is used, then it would conform to the bill. It seems to me that if you adopt this amendment you will remove those objections to this bill which have been pointed out, and they ought to be removed. The miller is not concerned with sales in communities and is not concerned with the retail dealer selling articles in bulk, and it would not at all interfere with the requirements as to his business which the bill imposes. We all know, of course, that this bill was proposed by the millers. It is claimed that they want some standard measurement fixed for their products, so that there will be uniformity throughout the country.

But if the farmer's wife or somebody in the great city should want to go to a grocery and buy 3 pounds of flour or 7 pounds of flour or any number of pounds of an article which is shipped by the dealer in bulk, she ought to have the right to do so and the dealer ought to have the right to make such sales. There is no imposition involved in a sale when a purchaser comes and says he wants 6 pounds of some particular article. The dealer weighs out 6 pounds, sells it to her, and he ought to be permitted to do that and he is violating no law now on the statute books, and under my amendment he will be violating no law proposed to be enacted in this measure.

Mr. HARDY of Texas. Will the gentleman yield?

Mr. CONNALLY. I will.

Mr. HARDY of Texas. Under this measure, if the housewife here in Washington went down to her grocery that she deals with having 50 cents in her pocket and flour was worth 8 cents a pound and she wanted to buy 50 cents worth of flour, could the dealer weigh it out, put it in a paper bag as a package, and sell it to her?

Mr. CONNALLY. I rather think under the amendments already adopted he could do that, because it would not be in the original unbroken package, and my amendment is to amplify and clarify what is meant by the original unbroken package, so as to permit her to do that very thing and to remove, so far as possible, the annoyances and inconveniences which the bill would otherwise impose on the retailers and their customers.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SAUNDERS of Virginia. Mr. Chairman, I desire to ask the gentleman from Michigan [Mr. McLAUGHLIN] the question that I rose to ask him a moment ago in line with the suggestions he was making—the merits of which I think will be conceded by every lawyer on this floor—Would it not be also true that in line 18 the word "all" ought to be "any," otherwise for the purpose of conviction the prosecuting officer would have to show that the wrongdoer had sold all of these commercial feedstuffs?

Mr. McLAUGHLIN of Michigan. I think the gentleman from Virginia is right in line with my suggestion and my idea of the bill.

Mr. SAUNDERS of Virginia. I desire to offer the following amendment. Strike out the word "all," and insert the word "any."

Mr. BANKHEAD. There is an amendment pending.

Mr. SAUNDERS of Virginia. I am offering it in my time, and am not interfering with any other amendment.

The CHAIRMAN. The gentleman from Virginia offers the amendment which the Clerk will read for information.

The Clerk read as follows:

Page 2, line 18, strike out the word "all" before the word "commercial" and insert in lieu thereof the word "any."

Mr. SAUNDERS of Virginia. Now, Mr. Chairman, the gentleman from Massachusetts [Mr. TREADWAY] seemed disposed to

criticize the committee for taking an undue amount of time in the consideration of this bill. I think this discussion has been one of the most fruitful discussions that I have ever followed because it has served to reveal the utter lack of comprehension of his task by the person or persons who originally submitted this bill to the committee, a bill which the gentleman from Indiana proudly states was unanimously reported by that committee. [Applause.] Without the amendments which have been added by the Committee of the Whole by the votes of Members on both sides of the aisle, this bill would impose the very greatest hardships and injustices in its practical operations upon small dealers, and that portion of the public dealing with small dealers. [Applause.]

As has been pointed out by the gentleman from Texas [Mr. HARDY] and by others, it would be illegal under this act as drawn for a grocer in a village, or small town, or for that matter in a city to send out 6 pounds of sugar in any package other than a standard package.

Mr. BLANTON. Flour.

Mr. SAUNDERS of Virginia. I should have said flour. We all know that in the small villages of the country these mill products are handled in bins. Think of the hardship involved in forbidding a grocer to send out a 6, or 7, or 11 pound package of grits, or hominy, or flour, but limiting his sales, and therefore the orders of his customers to the standard packages. So I say that the discussion in this body and the various amendments which have been offered, the amendments of the gentleman from Michigan, the amendment of the gentleman from Ohio [Mr. GARD], and other amendments correcting the original crudities of this measure, have been of the very greatest value. I do not think, Mr. Chairman, that there can be any question that the amendments offered by the gentleman from Michigan, and the amendment offered by myself ought to be adopted. Otherwise, when the officers of the law seek to secure a conviction under this act, they will be required to show that the defendant has sold all of the articles referred to. Such is not the real intent of the law. That intent is effectuated by the amendments proposed.

The CHAIRMAN. The time of the gentleman has expired; all time has expired.

Mr. McLAUGHLIN of Michigan. Mr. Chairman, I do not wish to occupy time, but I wish to offer an amendment without debate.

Mr. MANN of Illinois. There are two amendments pending.

The CHAIRMAN. They were merely offered for information.

Mr. McLAUGHLIN of Michigan. If I have an opportunity to offer it after the others—

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken, and the amendment was agreed to.

Mr. McLAUGHLIN of Michigan. Mr. Chairman I offer the following amendment: Page 2, line 17, strike out the word "and" and insert the word "or"; line 18, after the word "meals," strike out the word "and" and insert the word "or."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Michigan [Mr. McLAUGHLIN].

The Clerk read as follows:

Amendment by Mr. McLAUGHLIN of Michigan: Page 2, line 17, after the word "wheat-mill," strike out the word "and" and insert in lieu thereof the word "or"; line 18, after the word "meals," strike out the word "and" and insert the word "or."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. BLANTON. Mr. Chairman, I ask for a division, just for the purpose of checking up the committee.

The committee divided; and there were—ayes 22, noes 0.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 4. That the provisions of this act shall not apply to packages of the following wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs, when intended for export to any foreign country, and packed according to the specifications or directions of the foreign purchaser, agent, or consignee; but if said wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs, shall, in fact, be sold or offered for sale for domestic use or consumption, then this exception shall not exempt said articles from the operation of any of the other provisions of this act: *Provided, however,* That when packages of said wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs originally intended for export, have been packed in the packages customarily used in any foreign country, and it becomes necessary to offer these for sale or to

sell them for domestic use or consumption, then such export packages may be sold for domestic use or consumption by special contract, if approved by the Director of the Bureau of Standards.

Mr. GARRETT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GARRETT: Page 3, line 22, after the words "by the," strike out "Director of the Bureau of Standards" and insert "Secretary of Agriculture."

Mr. GARRETT. Mr. Chairman, if this amendment shall prevail, of course it would logically be followed by amendments to subsequent sections changing the administration of this law from the Director of the Bureau of Standards and the Secretary of Commerce to the Secretary of Agriculture.

Now, I am not clear in my recollection as to where the enforcement of these prior standard laws that Congress has passed has been placed. Perhaps the gentleman from Indiana [Mr. VESTAL] can tell me whether they have been placed under the Director of the Bureau of Standards.

Mr. VESTAL. The Bureau of Standards in all these weight and measure bills.

Mr. GARRETT. Well, that being the case, possibly it should be continued as regards this measure, and yet somehow, Mr. Chairman, I am impressed with the thought that the Congress ought to try to centralize the enforcement of acts of this character in some one department in order to prevent a duplication of work.

Now, the Department of Agriculture is charged with the enforcement of the pure-food act. It is charged with the enforcement of various acts, and the duties of the agents of the Department of Agriculture in enforcing those acts will be exactly in line with the duties of the agents who will be employed in the enforcement of this act. And I am exceedingly anxious to do all that we can to prevent duplication and to prevent the building up in different departments here of large machines at the public expense for the enforcement of these simple statutes. I believe that this act may very properly, dealing, as it does, wholly with food and feed stuffs, be placed in the Department of Agriculture for enforcement.

Mr. WALSH. Will the gentleman yield?

Mr. GARRETT. Certainly.

Mr. WALSH. What does the gentleman understand by the language in this proviso:

When approved by the Bureau of Standards, that it may be sold by special contract.

Does that mean that a person going into a grocery store to get some of these meals, and they have them in these packages, there has got to be some special transaction before he can purchase them different than if they were put in a regular package?

Mr. GARRETT. I suppose that the common-sense meaning of it would be this, that if a miller has prepared certain of these stuffs for export, to be sold in a foreign country, and has packed them according to the provisions of that country, and then for some reason finds that he can not export them, he will be permitted by a special contract to sell them to retailers in domestic consumption. And then I presume that there would necessarily have to be something to show that the retailer was in lawful possession of them, so that he would have the right to resell them without violating any law. And I presume that is what it means. If it does not, it does not mean anything. For the reason stated, in order to prevent the duplication, unless the gentleman from Indiana [Mr. VESTAL] or some other gentleman can give me some good reason why another organization should be built up in another department, employing the Lord only knows how many agents for this enforcement, going out over the country and duplicating work, I shall insist upon my amendment.

Mr. FESS. Will the gentleman yield?

Mr. GARRETT. Certainly.

Mr. FESS. I am inclined to agree with what the gentleman says. The Agricultural Department has the administrative feature very well organized, while the Bureau of Standards is more of a research institution. There is no particular research demanded here, is there, and no technical knowledge?

Mr. GARRETT. None whatever that I can see. It is plainly detective or investigating work, just exactly like that which the Department of Agriculture is carrying on every day in the enforcement of the pure-food act and other similar laws.

Mr. FESS. It strikes me the gentleman's suggestion is a good one, and unless there is reason why it should not be voted down it should be voted up.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DAVIS of Tennessee. Mr. Chairman, I move to strike out the last word.



I do that for the purpose of making an announcement. The State Department and the Associated Press have received a telegram to the effect that Consular Officer Jenkins was released on the order of the court last night at 10 o'clock and immediately went to his home. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. GARRETT].

The question was taken; and the Chair announced that the ayes seemed to have it.

Mr. MANN of Illinois. Division, Mr. Chairman.

The committee divided; and there were—ayes 20, noes 16.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. BANKHEAD. Mr. Chairman, I move to strike out the enacting clause of the bill.

The CHAIRMAN. The gentleman from Alabama moves to strike out the enacting clause.

Mr. BANKHEAD. Mr. Chairman and gentlemen of the committee, it seems to me from the discussion that has been had upon this bill, that the proponents of the measure have failed absolutely to show any convincing reasons why this bill should be enacted at the present time.

There is an absolute lack of any evidence to show that there is any general demand on the part of the people of this country, who will be in large measure affected by the drastic provisions of the propositions contained in this bill; but, on the other hand, it is practically admitted that the bill itself has been initiated and sponsored and drafted in a large measure by the large milling interests of this country.

Gentlemen, I want to say to you that I believe if there is anything that the people of this country as a whole are sick and tired of it is a continuance of these stringent governmental regulations in the private business affairs of the people of this country. During the operation of the war measures extraordinary powers were conferred on the centralized Government here in Washington, and the people bore a great many of those things with patience because they recognized them as necessary. But here, under a program of reconstruction, gentlemen, there is deliberately brought in for permanent use in this country a series of regulations that violate absolutely, in my judgment, not only the provisions of the Constitution but violate any existing necessity for the passage of this legislation.

Mr. Chairman, I think that is all I have to say on the proposition. There has been enough discussion here to show the absence of any necessity for this legislation.

The CHAIRMAN. The question is on agreeing to the motion of the gentleman from Alabama.

Mr. MONDELL rose.

The CHAIRMAN. Does the gentleman from Wyoming desire to speak in opposition to the proposition?

Mr. MONDELL. I do.

The CHAIRMAN. The gentleman from Wyoming is recognized for five minutes.

Mr. MONDELL. Mr. Chairman, it is very easy to find fault with a bill like this. I do not know of anything easier or simpler. We all know that it is tremendously important to have a flour and feed products standard established. Everybody knows that. A barrel of flour does not mean the same thing in the various States in the Union. The people of the country are being constantly imposed upon because there is no standard, and every profiteer and every dishonest dealer in the country can impose upon those to whom he sells goods. Everybody is agreed that this is an intolerable condition. We set about to establish standards of one kind and another years ago. We have advanced along that line until now we have reached this bill and the matters it refers to, and as I recollect it no one appeared in the committee against the bill.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield for a question?

Mr. MONDELL. The gentlemen who fear that somewhere sometime some housewife may have some difficulty because she loans to a neighbor a cupful of flour, or some country grocery man sells a pound or two, are willing to sacrifice the whole matter of standards out of that fear, which reminds one of the ancient maiden lady who was found in a flood of tears, explained by the fact that it had just occurred to her that she might have been married in her early years, and, having been married happily, she might have had a child, and that some serious accident might have occurred to that child, and the thought of it drove her to tears; her fears had just about as much basis and foundation as most of the fears that have been suggested in connection with this legislation; just about as much. They are in the realm of fancy and imagination and improbability.

And yet gentlemen have conjured up these fears, and having brought themselves to believe that there is some basis for

them they are willing to have the present unsatisfactory condition continued, under which the people of the country can be cheated, and cheated continuously, by dishonest dealers, because there is no standard established for products of this kind.

Now, if gentlemen want to go before the country defending the defeat of legislation that is intended to compel honest dealing, well and good. That is all there is in a situation of this kind. Shall we or shall we not know what constitutes a barrel of flour or a sack of flour in America? We never have known nationally; it is about time we should know, and this bill attempts to make provision for it. If the bill is not in entirely proper form, let us put it in proper form. We have been discussing and amending it for two days with that object in view.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. And gentlemen have very little faith in their amendments if, after having amended it numerous times, they now think it is unsatisfactory.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. BLANTON. After this bill is passed, will the gentleman from Wyoming kindly tell the committee what will constitute a barrel of flour under the provisions of this bill?

Mr. MONDELL. It provides for various standard packages.

Mr. BLANTON. Then we will have a barrel of flour in half a dozen different packages.

Mr. KNUTSON. What is the difference, as long as it weighs the same?

Mr. BLANTON. But, unhappily, nowhere does the bill provide what constitutes a barrel of flour.

Mr. MONDELL. Well, if the gentleman wants just exactly that provision in the bill, why does he not offer a provision stating what a barrel of flour shall weigh? It is not necessary in the establishment of a standard to do that.

Mr. BLANTON. If it were amended in any other particular, the committee would not know its own child. [Laughter.]

Mr. MONDELL. That may all be.

Mr. KNUTSON. I do not know that any committee could bring in a bill that would meet with the supreme wisdom of the gentleman from Texas.

Mr. BLANTON. Oh, yes; I have been associating with the gentleman from Minnesota lately. [Laughter.]

Mr. KNUTSON. Yes; and if the gentleman will associate a little longer, he will get a little wisdom. [Laughter.]

The CHAIRMAN. The committee will be in order.

Mr. SINNOTT. Mr. Chairman, I rise to a point of order against the motion to strike out the enacting clause, that it is not in order under the rule; and I wish to cite—

Mr. WINGO. I make the point of order, Mr. Chairman, that the gentleman is too late. The motion to strike out the enacting clause is an amendment.

Mr. SINNOTT. No; I am not too late.

The CHAIRMAN. Will the gentleman from Oregon cite his authority?

Mr. SINNOTT. I wish to cite to the Chairman section 3215 of Hinds' Precedents, volume 4:

A special order providing that a bill should be open to amendments in Committee of the Whole was held to prevent a motion to strike out the enacting clause.

After debate the Chairman held:

The Chair would like to call the attention of the gentleman from Texas to the reading of the special order under which we are operating. The Chair will hold that under the provisions of the special rule under which the committee is now operating the motion of the gentleman is not now in order.

This rule provides for the consideration of this bill, and the motion to strike out the enacting clause would now set aside the rule adopted by the House to consider the bill. The rule provides that at the conclusion of the general debate the bill shall be read for amendment under the five-minute rule, and thereupon the committee shall rise and report the bill to the House with amendments, if any, that have been agreed upon.

This motion to strike out the enacting clause, especially before the bill has been fully read, is surely not in order, because it sets aside the special order adopted by the House for the consideration of this bill.

Mr. WALSH. What is to prevent the committee rising and reporting to the House that the bill has been amended by striking out the enacting clause?

Mr. SINNOTT. This motion has been made before the bill has been read.

Mr. WALSH. It is being read under the five-minute rule, and under the five-minute rule a motion to strike out the enacting clause is in order after the first section has been read.

Mr. SINNOTT. The rule provides that the bill shall be read; that is, that it shall be read through.

Mr. WINGO. Mr. Chairman, I rise to a point of order,

The CHAIRMAN. There is one point of order pending now. Mr. WINGO. I make the point of order that the point of order comes too late. The point of order might have been good if raised at the proper time, but there has been debate upon the amendment to strike out the enacting clause. Now, the House can waive a point of order. The Chair is familiar with that rule. The point of order should have been made the very moment the motion to strike out the enacting clause was made. Debate has intervened, and there is absolutely no question that this point of order comes too late. I make the point of order that it does.

Mr. MANN of Illinois. Mr. Chairman, the gentleman from Arkansas just stated, as I understood him, that the point of order made by the gentleman from Oregon would have been good if made in time.

Mr. WINGO. I am inclined to think, at first blush, it might have been if it had been made at the time the motion was offered, though I am not sure at the moment.

Mr. MANN of Illinois. The point of order goes to the authority of the committee.

Mr. WINGO. Is not that true on every amendment?

Mr. MANN of Illinois. If the rule forbids the committee considering a motion to strike out the enacting clause before it finishes the reading of the bill, then the point of order does not come too late, and it would be the duty of the Chair, without any regard to the point of order, if his attention was directed to it, to declare the committee to be without the power to do a thing which the House had ordered should not be done.

Mr. WINGO. What the gentleman says is true, and it is also true that the rules of the House forbid an amendment which is not germane; but if the House sits by and permits an amendment to be offered that is outlawed by the rules and permits debate, then the rules of the House say that the House is estopped from raising the point of order.

Mr. MANN of Illinois. The House did not sit by. The House is not here. This is the Committee of the Whole.

Mr. WINGO. Well, the Committee of the Whole. Let me give the gentleman an illustration. Suppose when we are in Committee of the Whole an amendment is offered which is not germane. Under the rules of the House we are limited to the consideration of matters germane to the bill under consideration; but if the committee permits an amendment to be offered that is not germane, an amendment that is contrary to the rules, and no point of order is raised, then after debate has intervened it is estopped from raising the point of order. That is the rule of the committee itself.

Mr. MANN of Illinois. That is true, and that is the common practice of the House, but it is not this case at all.

Mr. SINNOTT. Mr. Chairman, this is an effort in the Committee of the Whole to set aside a special order of the House. The Committee of the Whole has no jurisdiction to do that.

Mr. GARRETT. Mr. Chairman, I do not know the form of the rule or the character of the bill which was involved in the case that has been cited by the gentleman from Oregon [Mr. SINNOTT].

Mr. SINNOTT. It is very much like the special order in question. Here is the rule under which the House was acting at the time that decision was made:

\* \* \* That general debate shall continue on said bill during each day until 5 o'clock p. m., and at evening sessions, to which a recess shall be taken, to be held from 8 o'clock till 11 o'clock p. m., until and including Thursday, the 25th day of March, unless sooner concluded; that from the conclusion of general debate until the 31st day of March there shall be debate upon the said bill by paragraphs, and during this time the bill shall be open to amendment as each paragraph is read, but committee amendments to any part of the bill shall be in order at any time.

There is very little difference.

Mr. GARRETT. I think there is a very great distinction between that resolution and the resolution under which the committee is now proceeding. That resolution fixed a definite time during which the bill was to be considered. It fixed a particular day. The distinction between that and this case is that this fixes no time limit. Unless I am very much in error in my recollection, it has been uniformly held that any bill which comes up under the general rule of the House on the Union Calendar and is considered in the House in Committee of the Whole may be amended by striking out the enacting clause in committee at any time during the progress of the bill. That is under the general rules of the House where it comes up for consideration under those general rules. Take an appropriation bill. It would be in order at any time during the consideration of an appropriation bill to move in Committee of the Whole to strike out the enacting clause. This special resolution under which this bill is being considered does not fix any time limit, does not provide that the consideration shall conclude at any particular time, but it provides that the bill shall be considered

under the five-minute rule. What five-minute rule? Why, the five-minute rule prescribed by the general rules of the House. Therefore the fact that this is being considered under a special order, that special order being worded as it is, does not change its status from that of a bill privileged under the general rules of the House. And while I shall vote against the motion to strike out the enacting clause, I respectfully submit that the motion offered by the gentleman from Alabama is in order.

Mr. SAUNDERS of Virginia. Mr. Chairman, while I recognize the plausible character of the suggestion made by the gentleman from Illinois [Mr. MANN], I submit that the suggestion is merely plausible and nothing more. It is perfectly true that a question of authority is presented, but all things proposed to be done that are contrary to the rules present a question of authority. Permit me to illustrate. Section 776 of our House Manual provides that no motion, or proposition on any subject different from that under consideration shall be permitted under cover or guise of amendment. Suppose a bill relating to fisheries is before the House, and some Member offers an amendment that effects a radical reorganization of the Army, or Navy.

This amendment is plainly open to the objection that its consideration is contrary to the rules and in excess of the authority of the House. A question of authority is therefore presented, if objection is made in time. But if debate is allowed to proceed, the point of order will not be entertained thereafter. When such an amendment is offered, an opportunity is afforded to make the point of order, but if no one rises to make the point, and debate proceeds, the time has passed in which the point of order can be made, and thereafter the Members are estopped from raising the point of order, or if it is raised from having it considered by the Chair. That is this situation. An amendment was offered under the five-minute rule and discussed as an amendment for fully five minutes. The proponent of the amendment thereupon took his seat. Another Member was then heard in opposition for five minutes. At the conclusion of the debate the question of order that the amendment was not in order under the special rule was raised for the first time. I submit that the gentleman from Oregon was estopped from making the point of order at the time he raised it, in other words, the gentleman had slept on his rights.

The question of authority presented, if raised in time, might have sustained the point of order, just as a point of order to a non-germane amendment is good, if raised in time. The Chair can not now entertain a point of order which should have been made at the time prescribed by our rules and precedents. The gentleman has lost his day in court.

Mr. WALSH. Mr. Chairman, I would like to ask the gentleman from Virginia a question. Suppose somebody in Committee of the Whole made a motion to lay the bill on the table, a motion which is clearly out of order, and nobody made a point of order against it, and it was voted to lay it on the table. Would the gentleman claim that that could be reported to the House?

Mr. SAUNDERS of Virginia. The gentleman from Massachusetts has presented a proposition to which I can not agree. I am aware that it is commonly said that it is not in order to lay a matter on the table in Committee of the Whole, but conceding that the motion is made, and the bill without objection is laid on the table, then that is the end of the matter in the committee, unless a motion to reconsider can be made. Any question thereafter must be raised in the House. Now if in the Committee of the Whole we do something contrary to the instructions of the House, then any question over that action, if it can be raised at all, must be raised in the House.

Mr. WALSH. Suppose a member of the committee should now get up and make a motion to adjourn. Nobody raises the point of order and the motion is carried. Would the gentleman state, then, that the House had adjourned?

Mr. SAUNDERS of Virginia. No, the House would not have adjourned, but if the committee votes to adjourn and actually rises, that session of the committee would certainly be terminated. The gentleman's questions are interesting, but the situations presented by him are not analogous to the pending situation, which is one of an amendment that may, or may not be subject to a point of order, but as to which no question of order was presented until debate on the merits had been concluded.

Mr. MANN of Illinois. Mr. Chairman, we are not entirely without a precedent in this matter. On June 11, 1902, the Committee of the Whole House on the state of the Union was considering under a special rule of the House a bill providing for the construction of a telegraph or cable line between the United States and the Philippine Islands. The gentleman from Georgia, Mr. Adamson, at one time in debate moved to strike out the enacting clause. I made the point of order that the special



order under which the bill was considered provided for the consideration of the bill under the five-minute rule, and that therefore the motion to strike out the enacting clause might in effect be the means of abrogating that provision of the order—the precise question that is raised here now. But before I made the point of order debate had begun on the motion to strike out the enacting clause.

The Chairman, Mr. Lacey, of Iowa, one of the best chairmen that the House ever had in parliamentary matters, held:

Without deciding the question as to whether under the special rule under which we are proceeding, objection would have been in order if it had been made in time, the Chair is of opinion that the point of order not having been made, it is now too late to make it, just the same as in case of the rule forbidding legislation on an appropriation bill, if the point is not made when such amendment is offered, or until after debate, it comes too late. The Chair therefore holds that the point of order is not well taken.

I probably did not fully agree with the ruling of the Chair at the time. But, after all, that is the ruling of the House. Personally I am inclined to think that under the rule adopted by the House the motion to strike out the enacting clause is in order at any time, because it is a question which can be made under the rules of the House when the bill is being considered under the five-minute rule. I believe in giving the Committee of the Whole the widest latitude that is possible under the rules of the House.

The CHAIRMAN. The Chair is ready to rule. The question raised here is rather involved, but the Chair has consulted several authorities referred to in the debate and feels clear on the point involved. The gentleman from Oregon properly refers to the paragraph 3215 of Hinds' Precedents, volume 4, in support of his contention. It seems to the Chair that in the decision rendered, referred to in that paragraph, the whole matter hinged on whether or not the point of order was made before debate had begun. We must concede in the point of order now before the committee that debate had taken place before the point of order was made. The gentleman from Alabama [Mr. BANKHEAD] had made his motion to strike out the enacting clause and had debated it for a number of minutes. Therefore, as debate had taken place, in the Chair's opinion the citation of paragraph 3215 does not parallel the question now under discussion, because debate had already been had, while in that reference the decision was based on the fact that debate had not taken place previous to the point of order being made.

Mr. BANKHEAD. Mr. Chairman, the gentleman from Wyoming had also discussed it for five minutes.

The CHAIRMAN. It makes no difference how many people discussed it; if it was discussed at all, that is sufficient. The Chair now refers to volume 5, Hinds' Precedents, section 6902, which was referred to a moment ago by the gentleman from Illinois [Mr. MANN], and the Chair had this ruling in mind before the gentleman from Illinois called his attention to it. It seems to the Chair that this case is almost a parallel case to the one now presented to the committee. As the gentleman from Illinois [Mr. MANN] has quoted it in full, the Chair will not repeat the ruling rendered at that time, a ruling on which he repeats his own ruling, but will insert it as part of his decision, as the reason why he is going to overrule the point of order. The Chair therefore overrules the point of order made by the gentleman from Oregon [Mr. SINNOTT], on the ground that the point comes too late.

Section 6902, volume 5, Hinds' Precedents:

A point of order against the motion to strike out the enacting clause must be made before debate has begun.

On June 11, 1902, the Committee of the Whole House on the state of the Union was considering the bill to authorize the construction, etc., of telegraphic cables, etc., when, the reading of the bill for amendment having begun, Mr. Adamson, of Georgia, moved to strike out the enacting clause. Debate having begun on his motion, Mr. MANN of Illinois made the point of order—

And so forth.

In deciding the point the Chairman said:

Without deciding the question as to whether, under the special rule under which we are proceeding, objection would have been in order if it had been made in time, the Chair is of opinion that the point of order, not having been made, it is now too late to make it, just the same as in the case of the rule forbidding legislation on an appropriation bill, if the point is not made when such an amendment is offered, or until after debate, it comes too late. The Chair therefore holds that the point of order is not well taken.

The question now is on the motion made by the gentleman from Alabama to strike out the enacting clause.

The question was taken; and on a division (demanded by Mr. BANKHEAD) there were—ayes 19, noes 95.

So the motion was rejected.

Mr. STEVENSON. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. STEVENSON: Page 3, line 6, after the word "intended," insert the words "for sale within the State where packed or."

Mr. STEVENSON. Mr. Chairman, this brings up again the question of whether this shall be a regulation of interstate commerce or a regulation of all of the details of milling within every State, regardless of whether the goods shall go in interstate commerce or not. It is only justified when it is frankly admitted that it is for the purpose of regulating all packages, whether they go into interstate commerce or not, under the right provided in the Constitution to fix the standard of weights and measures.

I contend that it is not a bill to fix the standard of weights and measures, but it is a bill to standardize the packages in which these products shall be sold. The first provision is that the standard of weights shall be 100 pounds avoirdupois. That looks like the regulation of the standard of weights, and if you would stop there you might be fixing a standard weight for a package of flour at 100 pounds, but you go on to say that you can not sell it unless you sell it in a standard-weight package or in four or five other sized packages. You have five or six standards or you have none, if you are fixing a standard size or weight, and therefore you are simply regulating the size of the package. You are not regulating the number of ounces in a pound nor the number of pounds in a ton nor the number of pounds even in a sack. You allow seven or eight different sized packages, and it is not a regulation of the standard of weights or measures. As I said a while ago, you can fix at 128 the number of cubic feet in a cord of wood, but do you think you could fix the number of feet in a load that a man would be allowed to sell? Would that be fixing a standard of measure or regulating the amount sold?

I bring this matter up. The committee has already voted upon it once in another form, but it seems to me that it ought to be included, so that we can protect the people of any State from the importation in interstate commerce of dishonest packages, just as you fix an apple barrel at so many cubic feet, but when you come to regulating packages that are put up in local mills to sell to local people you are simply regulating that which the State itself should regulate in order to protect its own citizens, and if it does not protect its own citizens, I contend that the Congress has not been given that right to protect them in this matter.

Mr. VESTAL. Mr. Chairman, I move that all debate upon this section and all amendments thereto now close.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment of the gentleman from South Carolina.

The question was taken, and the amendment was rejected.

Mr. WELLING. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. WELLING: Page 3, line 4, strike out "and" and insert "or"; line 5, after the word "grits," strike out "and" and insert "or"; line 5, strike out "and all" and insert "or any"; line 9, strike out "and" and insert "or"; line 10, after the word "grits," strike out "and" and insert "or"; line 10, strike out "and all" and insert "or any"; line 15, strike out "and" and insert "or"; line 16, strike out the first word "and" and insert "or"; line 16, strike out "and all" and insert "or any."

Mr. VESTAL. Mr. Chairman, I accept that amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Utah.

The amendment was agreed to.

The Clerk read as follows:

Sec. 5. That rules and regulations necessary for the enforcement of this act, not inconsistent with the provisions hereof, shall be made by the Director of the Bureau of Standards and approved by the Secretary of Commerce, and that said rules and regulations shall include reasonable variations or tolerances which may be allowed.

Mr. GARRETT. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. GARRETT: Page 3, line 24, strike out the words "Director of the Bureau of Standards and approved by the Secretary of Commerce and that," and insert in lieu thereof the following: "The Secretary of Agriculture and."

Mr. GARRETT. Mr. Chairman, the amendment offered by myself to section 4 and adopted by the committee renders necessary the adoption of this amendment.

Mr. VESTAL. Mr. Chairman, I accept that amendment.

Mr. WINGO. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I admire very much and respect both the ability and high character of the gentleman from Wyoming [Mr. MONDELL], and I was very much surprised to see him come in here and criticize those of us who called attention to defects

in the bill. His own speech shows that he has not read the bill. He made the most remarkable statement. He said that nobody knew before this bill was brought in what constituted a barrel of flour, how many pounds. In 31 States of the Union the schoolboys have been taught all my years that 196 pounds constituted a barrel. He says that this bill will fix a standard for barrels. I will ask the gentleman from Wyoming [Mr. MONDELL] now, What does this bill provide shall be the standard barrel of flour—how many pounds?

Mr. MONDELL. Before the gentleman asks the question, will he be good enough to quote me correctly. I said nothing about its fixing the standard—

Mr. WINGO. What did the gentleman state, if I did not quote him correctly? Did not the gentleman state that we did not know before what constituted a barrel of flour, or what did the gentleman say?

Mr. MONDELL. I said there was a great deal of question of what constitutes a barrel of flour in America, and that is true. There is no such thing as a standard.

Mr. WINGO. Did not the gentleman say that before this bill was brought in we did not know how many pounds constituted—

Mr. MONDELL. The gentleman is much more interested in quibbles than in securing a standard for flour and feedstuffs.

Mr. WINGO. I decline to yield for a lecture.

Mr. MONDELL. I am interested in getting a standard.

Mr. WINGO. I decline to yield to a man who knows confessedly nothing about the bill under consideration. I will eat the bill if the gentleman can point to a single line that specifies a standard for a barrel of flour.

It is not in here, and if the gentleman had read the bill he would have known it. That is the trouble with the gentlemen who assume that they have all the sum total of human intelligence, that they can sit in their offices while others of us are on the floor protecting the public welfare, and they come in occasionally and read a lecture like a school professor to naughty boys. That is the trouble. If the gentleman had read the bill, he would have seen that when he stated that we changed the standard from 196 pounds to 200 pounds that the bill does not do that. I will eat the bill if any man can show wherein this bill fixes a standard for the barrel. If you will undertake to do that, I will join you, because there is a difference in the States in regard to a barrel of flour. Thirty-one States recognize 196 pounds; others are accustomed to 200 pounds. But you do not do that. That is not what you are trying to do in this bill, and the gentleman could serve a more useful purpose if he would be here listening to attempts made by capable, serious men upon his side, as old and experienced as he is, who have made serious efforts to try to correct this foolish, slipshod legislative freak brought in here under a special rule by the Republican Party as a great reconstruction war measure, I presume. Let the gentleman study legislation before he undertakes to lecture those who stay upon the floor and try to assist in framing legislation. If you bring in a bill for a standard barrel of flour, I will help you, for we have constitutional authority for that, but I would not vote for a miserable makeshift that imposes a \$500 penalty on a Wyoming housewife who packs in a package not of the size prescribed by this bill homemade hominy to send to her home town for sale, and neither will the gentleman when he reads the bill, which I hope he will when he goes to vote for it.

Mr. VESTAL. Mr. Chairman, I move that all debate on this section and all amendments thereto now close.

The motion was agreed to.

The CHAIRMAN. The question is on the motion of the gentleman from Tennessee.

The question was taken.

The CHAIRMAN. The Chair is in doubt.

Mr. GARRETT. The committee accepted the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Sec. 6. That it shall be the duty of each district attorney to whom satisfactory evidence of any violation of this act is presented to cause proper proceedings to be instituted and prosecuted in a United States court having jurisdiction of such offense.

Mr. BANKHEAD. Mr. Chairman, I move to strike out the last word for the purpose of suggesting to the chairman of the committee the propriety of inserting the words "United States district attorney" after the word "each," in line 4, because in some States they have a State attorney. I do not know that it appeals to the gentleman as necessary.

Mr. PARRISH. Will the gentleman yield?

Mr. BANKHEAD. Yes.

Mr. PARRISH. As a friend of the measure I want to see it perfected as much as possible, but I would like to ask the gen-

tleman from Alabama and also the chairman of the committee if they do not think the elimination of section 6 entirely would be the proper thing to do, inasmuch as obviously under the present law it is the duty of the district attorney to enforce all the laws of the United States, and it is also the duty of the district attorneys to enforce them in different courts; and if section 6 were eliminated entirely would not the present law take care of the situation? I ask it as a friend of the bill, because I am for the bill and am voting for it.

Mr. BANKHEAD. Having the floor, in answer to the suggestion of the gentleman from Texas, I will say that the suggestion meets my cordial approval, but it seems to me that the section is unnecessary in the bill. It is always the duty of the district attorneys to take cognizance of all violations of the law.

Mr. WINGO. If section 6 is out, the district attorney would have to ask for instructions of the Department of Justice, but if section 6 stays in the Attorney General would not have any control over these prosecutions as he has now under the general statute. I think it would be better to strike section 6 out and modify this law so as to be enforced under the general supervision of the Department of Justice, as all other criminal statutes are and as the present food law is enforced.

Mr. BANKHEAD. Mr. Chairman, in order to get it before the committee, I move to strike out section 6. I withdraw the pro forma amendment.

The CHAIRMAN. The gentleman from Alabama withdraws the pro forma amendment and offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BANKHEAD: Page 4, lines 4 to 8, inclusive, strike out all of section 6.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 7. That this act shall not be construed as repealing the act of July 28, 1866, chapter 301, Revised Statutes United States, sections 3569 and 3570, authorizing the use of the metric system, but such sections shall not be construed as allowing the packing, shipment, or offering for shipment, sale or offering for sale of packages of any sizes other than those established as standards herein.

Mr. BENSON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would like to vote for this bill, and would do so if certain amendments had been passed that would bring it under the interstate commerce law; but being thoroughly convinced that there is no fixing of the standard either of weights or measures under this law, and that the passage of this law is nothing but a pretense and will bring about litigation, possibly carrying it to the Supreme Court, and when it goes there that it will be declared to be unconstitutional, and believing that the bill as a whole is one that will simply tend to interfere with business, I shall vote against it. It will put additional burdens upon the people, and will be a waste of the time of the court, and a great hindrance in every way to business generally.

I believe it will interfere largely with the small millers throughout the United States, where there is no occasion or necessity for having packages that are stamped with a certain amount of weight on them, because those millers grind for the local trade, grind by the pound, and the farmers who buy of them have intelligence enough to know what 25 pounds or 50 pounds are. I would like to vote for the bill, and would do so if the amendment suggested by the gentleman from South Carolina [Mr. STEVENSON] had been passed, and which would have put this bill under the interstate-commerce law, and not using the pretense of putting it under the provisions of the Constitution that provide for fixing the standard of weights and measures, which I do not believe this bill does.

I withdraw the pro forma amendment.

The CHAIRMAN. The gentleman from Maryland withdraws the pro forma amendment, and the Clerk will read.

The Clerk read as follows:

Sec. 8. That this act, in so far as it affects the following corn-mill products, namely, corn flour, hominy, grits, and meals, shall be in force and effect 90 days from and after its passage and approval, and with respect to the other commodities affected shall be in force and effect one year from and after the passage and approval of this act.

Mr. WELLING. Mr. Chairman—

Mr. VESTAL. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. VESTAL: Page 4, line 16, after the word "act," strike out the remainder of the section and insert in lieu thereof the following: "shall be in force and effect one year from and after the passage of this act."



The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VESTAL].

The amendment was agreed to.

Mr. BLANTON. Mr. Chairman—

Mr. VESTAL. Mr. Chairman, I move that the committee do now rise.

Mr. BLANTON. As a pro forma amendment, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. BLANTON. I just wanted to call the attention of the gentleman from Indiana to the effect of the amendment which he has just had adopted to this bill, which, as I understood it through the noise and commotion, was to strike out the last clause allowing one year before this act would go into effect respecting flour and wheat products. Under the terms of the bill, now that said last clause is eliminated, every single flour sack in existence at the time that this bill is approved and becomes a law will be absolutely wasted and thrown away. Under the provisions of section 8 a whole year was given in which to dispose of the flour sacks now in existence. Right to-day, as I have already taken occasion to call to your attention, there are in existence enough containers in the way of flour sacks already manufactured, and in the process of manufacture, and already stamped, with the special mill stamp of each particular mill upon them, to take care of the present wheat crop in this country, and under the terms of this bill now, since this last clause has been stricken out, not a single sack or container can be used after this law goes into effect and is approved.

Mr. TILSON. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. I do.

Mr. TILSON. Is not the gentleman laboring under a misapprehension as to what this amendment means? As I caught the meaning of it, it extends the one-year privilege to the corn-mill products and feed products as well as flour products.

Mr. BLANTON. Oh, no. I did not so understand it.

Mr. TILSON. It gives one year for all the products.

Mr. BLANTON. Did it not strike out the last clause?

Mr. TILSON. No. It struck out the three-months provision.

Mr. BLANTON. I am glad the gentleman called my attention to it. I did note that the gentleman from Utah [Mr. WELLING], who is not a lawyer, but who is a very close observer, offered an amendment here a while ago which contained 14 different vital changes to one page of this bill, and if each and every one of those amendments had not been adopted—and every one of them was a necessary life-giving amendment to this bill—without their being adopted the bill would have been farcical, and there have been so many amendments offered and so many amendments accepted by the committee, and offered and accepted in such quick succession, that I was not able to keep up with them. [Laughter.] That being the case, Mr. Chairman, I withdraw my pro forma amendment, but since the gentleman from Minnesota is now attempting as usual to butt into this debate, I am glad on behalf of his absent colleagues to see the gentleman from Minnesota [Mr. KNUTSON] back in the House again, because when we have been voting on these various amendments to-day this active, efficient Republican whip has been able to corral his colleagues in here out of the cloakroom and have them vote at the crucial time when they did not know what on God's earth they were voting for. [Laughter and applause.]

The CHAIRMAN. The gentleman from Texas withdraws his amendment.

Mr. GOOD. Mr. Chairman, I ask unanimous consent to proceed out of order for 10 minutes on a matter of appropriations.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to proceed for 10 minutes on a matter of appropriations. Is there objection?

Mr. SAUNDERS of Virginia. Reserving the right to object, Mr. Chairman, why can not that be done in the House? Let us dispose of this matter in the committee first. Let us dispose of the bill, and then let the gentleman from Iowa have the 10 minutes. I say we had better have it in the House. I will object, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Virginia object?

Mr. SAUNDERS of Virginia. Yes.

Mr. VESTAL. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Hicks, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 9755) to establish the standard of weights and measures for the

following wheat-mill and corn-mill products, namely, flours, hominy, grits, and meals, and all commercial feeding stuffs, and for other purposes, had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. The gentleman from New York [Mr. Hicks], Chairman of the Committee of the Whole House on the state of the Union, reports that that committee, having had under consideration the bill H. R. 9755, had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass. By the rule—

Mr. BLANTON. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. BLANTON. On such an important question I think we ought to have a quorum from now on. I think before further consideration of such an important measure as this we ought to have a quorum.

The SPEAKER. The gentleman from Texas makes the point that there is no quorum present. In the opinion of the Chair a quorum is not present. Does the gentleman from Indiana [Mr. VESTAL] wish to move a call of the House?

Mr. VESTAL. I move a call of the House.

The SPEAKER. The gentleman from Indiana moves a call of the House.

A call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, when the following Members failed to answer to their names:

Ackerman	Eagle	Kendall	Riddick
Anthony	Ellsworth	Kennedy, Iowa	Rogers
Ayres	Elston	Kennedy, R. I.	Romjue
Bacharach	Fairfield	King	Rowan
Barbour	Ferris	Kreider	Rubey
Barkley	French	LaGuardia	Sanders, Ind.
Bee	Fuller, Mass.	Langley	Sanders, La.
Black	Gandy	Lee, Ga.	Schall
Blackmon	Garland	Lehlbach	Scott
Bland, Ind.	Garner	Linthicum	Scully
Bland, Mo.	Glynn	Luce	Sears
Bland, Va.	Godwin, N. C.	Luhling	Siegel
Booher	Goldfogle	McClintic	Sims
Bowers	Goodall	McKenzie	Slemp
Briggs	Goodwin, Ark.	McKeown	Smith, Mich.
Britten	Gould	McLane	Smith, N. Y.
Browning	Graham, Pa.	McPherson	Stedman
Butler	Greene, Mass.	Mead	Steele
Candler	Griest	Merritt	Stephens, Ohio
Caraway	Hadley	Miller	Stiness
Casey	Hamill	Minahan, N. J.	Stoll
Christopherson	Hamilton	Montague	Strong, Kans.
Clark, Fla.	Harrison	Moore, Pa.	Sullivan
Classon	Haskell	Moore, Va.	Summers, Tex.
Cole	Hernandez	Morin	Taylor, Ark.
Collier	Hersman	Mudd	Thompson
Cooper	Hill	Murphy	Upshaw
Copley	Houghton	Nicholls, S. C.	Vare
Costello	Howard	Nichols, Mich.	Venable
Crisp	Huddleston	Nolan	Voigt
Crowther	Hudspeth	Oldfield	Volstead
Dallinger	Hullings	Olney	Wason
Davey	Humphreys	Osborne	Watson, Va.
Denison	Hutchinson	Padgett	Weaver
Dent	Igoe	Pell	Webster
Dewalt	Jacoway	Porter	Wheeler
Dickinson, Iowa	James	Pou	White, Kans.
Donovan	Johnson, Ky.	Radcliffe	Winslow
Dooling	Johnson, S. Dak.	Rainey, H. T.	Wise
Doremus	Johnston, N. Y.	Ramsayer	Yates
Dowell	Jones, Pa.	Randall, Calif.	
Dupré	Kahn	Reavis	

The SPEAKER. Two hundred and sixty-six Members have answered to their names, and a quorum is present.

Mr. MONDELL. I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will unlock the doors.

ADJOURNMENT UNTIL MONDAY NEXT.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that when the House adjourns this evening it adjourn to meet on Monday next.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that when the House adjourns to-night it adjourn to meet on Monday next. Is there objection?

There was no objection.

WHEAT AND CORN MILL PRODUCTS.

The SPEAKER. Under the rule the previous question is ordered.

Mr. WINGO. Mr. Speaker, may I suggest that by unanimous consent the gentleman from Iowa [Mr. Good] may make his statement now?

Mr. GOOD. I ask unanimous consent to address the House for 10 minutes on a matter of appropriations.

The SPEAKER. The gentleman from Iowa asks unanimous consent to address the House for 10 minutes. Is there objection?

Mr. CALDWELL. Reserving the right to object, on what subject?

Mr. GOOD. On the subject of an appropriation.

Mr. CALDWELL. Is it partisan?

Mr. GOOD. On the subject of a report with regard to an appropriation that it has been stated Congress failed to make.

The SPEAKER. Is there objection?

There was no objection.

Mr. GOOD. Mr. Speaker, this morning's press carried the following statement:

The Government will not attempt to control the distribution and sale of sugar after the Sugar Equalization Board is dissolved December 31.

Attorney General Palmer in making this announcement yesterday said that as no funds had been provided by Congress for carrying on the work of handling sugar, the Department of Justice would confine its efforts to the punishment of profiteers.

In explaining the abandonment of the program for defeating the sugar shortage, Mr. Palmer said he had put the proposition up to Congress and funds were not forthcoming.

While Mr. Palmer's action was generally accepted as opening up the sources of more sugar supplies by permitting refiners to pay more for the Cuban raw stock, it also was believed to mean sugar prices would soar. The department will continue to hunt down profiteers, but without means of checking up on the cost to the refiner or without control of the price at which the supplies come into this country, it was believed domestic consumers would be forced to pay high prices after January 1.

Mr. Speaker, one of three things is certain. Either the newspaper reporter who wrote that article misrepresented the Attorney General, or the Attorney General spoke without knowledge, or he willfully misrepresented the action of Congress.

No appropriation has been asked for by the Attorney General for carrying on this work. When he appeared before the Committee on Appropriations in June, when the sundry civil bill was under consideration, he said:

I should like to be heard on three matters. One is the matter of the fees of clerks. Another is the increase of appropriations for attorneys from \$125,000 to \$300,000, which I believe is carried in the bill as reported to the House in the last Congress, and the third is a supplemental estimate which we have submitted for an additional appropriation for the detection of crime.

Again, when he submitted his estimates for the deficiency bill the latter part of August he asked for the following sums and Congress appropriated the amounts, which I shall indicate. He asked for clerical and subclerical employees, \$16,000, and Congress gave him \$12,000. He asked for an increase of pay for the chief clerk of \$833.34, and Congress refused to give it. He asked for an increase in salary of his private secretary of \$833.34, and Congress refused to give that. He asked for an increase in the contingent expenses of \$28,000, and Congress gave him \$17,000. He asked for enforcement of the antitrust laws \$200,000, and Congress gave it to him. He asked for transportation of aliens \$250,000, and Congress gave him \$200,000. He asked for the detection and prosecution of crime \$1,000,000, and when explaining that estimate he said he expected to secure the punishment of profiteers and to establish fair prices of necessities, and Congress gave him every penny that he asked for for that purpose. [Applause on the Republican side.]

He asked for \$100,000 to repair the penitentiary at Fort Leavenworth injured by fire, and Congress gave him \$100,000. He asked for \$60,000 for equipment at Atlanta Penitentiary, and Congress gave him \$50,000. He asked for United States court marshals and deputies \$245,000, and Congress gave him \$245,000. He asked for the district attorneys \$35,000, and Congress gave him \$35,000. He asked for clerical expenses in the office \$150,000, and Congress gave him \$150,000. He asked for special assistants to the Attorney General \$345,000, and Congress gave him \$325,000. He asked for miscellaneous expenses \$15,000, and Congress gave him \$15,000. He asked for guards at Fort Leavenworth Penitentiary \$10,875, and Congress gave him the amount. He asked for the salary and maintenance \$272,000, and Congress gave him that amount. He asked for the McNeill Penitentiary salary and clothing \$2,234.99, and Congress gave him the penny all that he asked.

The Attorney General asked for no further or additional appropriation in that bill.

Congress did cut estimates in the deficiency bill, but not in the estimates made by the Department of Justice, except as I have stated. We gave the Attorney General every dollar he asked for for the enforcement of laws and the punishment of profiteers.

I want to say to the membership of the House that we are living in rather peculiar times, when conditions of men's minds are unsettled, when there is great unrest, and it ill becomes a member of the executive branch to criticize the legislative branch

when he bases his criticism on a misstatement of facts. It ill becomes a great Attorney General of the United States intrusted with the enforcement of the criminal laws of the United States, to go before the country misrepresenting Congress and saying that Congress declined to give him money, when Congress gave him every penny that he asked for for the enforcement of law. [Applause on the Republican side.]

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. GOOD. Yes.

Mr. BYRNS of Tennessee. I believe the Food Administration has been turned over to the Department of Justice. Does not the gentleman think it is fair to the Attorney General to state that in the last sundry civil bill Congress did either decline to appropriate money or continue money which had been appropriated for the Food Administration, and that evidently the Attorney General in his statement was referring to that and not to any specific recommendation that he made, but rather to the failure of the Congress to furnish money for the Food Administration? [Applause on the Democratic side.]

Mr. GOOD. I will say to the gentleman that question occurred to me; that was the reason I read from the hearings on the sundry civil bill that failed. The Attorney General was asked to make a statement in support of the estimates, and while the last Congress did not carry any provision for the very obvious reason that no estimate was made for that purpose by the Attorney General, and at the subsequent hearing it was seen that he never asked for a penny for such purpose. The only thing he wanted in addition to the appropriations carried in the sundry civil bill were the three things that I have enumerated, and none of them had the remotest relation to the question involved.

Mr. BYRNS of Tennessee. In order to be entirely fair, at the time the Attorney General appeared before the committee in the hearings last June, I take it that neither the Attorney General nor anyone else expected that the Department of Justice would ever be called upon to perform any duty in reference to the price of sugar. [Applause on the Democratic side.] The Attorney General at that time was asking only for appropriations necessary for the ordinary and customary duties of the Department of Justice, without any reference to the enforcement of the food law.

Mr. GOOD. But the Attorney General came before the Committee on Appropriations when the deficiency appropriation bill was under consideration and asked for \$1,000,000, and at that time he said that the United States was divided into 82 judicial districts, and that in every district he would have his fair-price committee and through that fair-price committee he intended to enforce fair prices of all of the necessities of life, and we gave him every penny that he asked for.

Mr. BYRNS of Tennessee. Even at that time the gentleman knows that it was not anticipated by the Attorney General that he would have anything in particular to do concerning the price of sugar. He was asking for certain specific appropriations for the enforcement of the war prohibition law and also against profiteering.

Mr. GOOD. Oh, yes; he was asking for that, but he was asking for the other thing, and in his statement in the clipping from which I read, if the gentleman will follow his language, he is quoted as saying:

In explaining the abandonment of the program for defeating the sugar shortage, Mr. Palmer said he had put the proposition up to Congress, but funds were not forthcoming.

The Attorney General never put the matter up to Congress, and Congress has never denied the request, for no request was ever made. It is unqualifiedly untrue. [Applause on the Republican side.]

Mr. BYRNS of Tennessee. The Attorney General and also the President of the United States, on August 8, put the matter up to Congress, and it was more than three months before they got an appropriation to enforce the food-control law. [Applause on the Democratic side.]

Mr. GOOD. Oh, yes; and we gave them the appropriation, and the Attorney General has also been complaining through the press of our failure to appropriate money so that he could deport the reds abroad, and yet we gave him \$200,000 out of \$250,000 asked for that purpose.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. BYRNS of South Carolina. Mr. Chairman, I ask unanimous consent that I may address the House for five minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. BYRNS of South Carolina. Mr. Speaker and gentlemen of the House, I was out of the Chamber a part of the time when the gentleman from Iowa [Mr. Good] was speaking. Therefore I do not know whether he said to the House that he



had or had not inquired of the Attorney General if he had made this statement. While the newspaper clipping the gentleman read from does not disclose the name of the newspaper, I take it for granted that it is a clipping from the Washington Post, and therefore I know that it can not be relied upon to state the truth. [Applause.] I am glad to see that some of my friends on the Republican side of the House also applaud that statement. It shows that at last they are realizing where the truth can and can not be expected.

Knowing that the Attorney General had not made any such statement, I telephoned to him, and he read to me the statement that he gave to the press, and nowhere in that statement did the Attorney General say that he had asked Congress for any funds for that purpose. He did say that he had called the attention of the Congress to the necessity of extending the powers of the Sugar Equalization Board after December 30, when those powers expire. Before the Senate Agriculture Committee he made a plea for the extension of the powers of that board. That extension has not been granted, and neither the gentleman from Iowa [Mr. Goob] nor any other Member of Congress will assert that the Attorney General has any powers other than those he states he possesses in this statement published this morning.

Not having those powers, he made the statement to the country that he had asked the Congress for that extension. He did not say that he had asked the Appropriations Committee for it. His statement is in writing, and if the gentleman from Iowa had been fair enough and square enough to ask the Attorney General if he had been correctly quoted in the Post he would never have made the statement that he has just made on the floor of the House. [Applause on the Democratic side.]

Mr. SNELL. Mr. Speaker, I would say to the gentleman that the Evening Star carries practically the same article that was carried in the Washington Post of this morning.

Mr. BYRNES of South Carolina. Why, my good friend, I have a great deal of respect for the Star, but that does not change the fact that the Attorney General has a copy of the statement that he made, in writing, on his desk, and has just read it to me. Nowhere in that statement did he say that he had ever asked the Committee on Appropriations for funds, and the chairman of the Committee on Appropriations could have ascertained that if he had done the Attorney General the justice of asking if he was correctly quoted before coming here and denouncing him.

Mr. GOOD. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of South Carolina. First, I ask permission, before I forget, to extend my remarks in the Record by inserting the statement of the Attorney General, so that the House and the country can see exactly what it was.

The SPEAKER. The gentleman from South Carolina asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

Mr. MADDEN. Has the gentleman a certified copy of the Attorney General's statement?

Mr. BYRNES of South Carolina. No. Whenever I get a statement from the Attorney General I do not have to have it certified. His word is good enough for me and for the country. [Applause on the Democratic side.]

Mr. MADDEN. Is his statement signed?

Mr. BYRNES of South Carolina. When he turns over to me the statement I shall insert it in the Record.

Mr. MADDEN. Mr. Speaker, I object unless it is signed.

Mr. GOOD. I hope the gentleman from Illinois will not object.

The SPEAKER. The Chair had already put the request and it has been granted.

Mr. MADDEN. I do not think that ought to go unchallenged. [Cries of "Regular order!"]

I was asking the gentleman about the statement of the Attorney General.

Mr. BYRNES of South Carolina. I do not yield the floor to the gentleman from Illinois.

The SPEAKER. The Chair put the question before the gentleman rose, of which the gentleman was doubtless unaware.

Mr. GOOD. Will the gentleman yield?

Mr. BYRNES of South Carolina. I will yield.

Mr. GOOD. I want to ask the gentleman if he is willing to state to the House that the Attorney General has said to him that he did not criticize Congress for its failure to make an appropriation in the statement which he made?

Mr. BYRNES of South Carolina. In the statement which he made there is absolutely no criticism of Congress for failure to make any appropriation. The statement is simply that he had requested that the powers of the Sugar Equalization Board be extended, and that the failure of Congress to extend the

powers of that board placed him in the position set forth in that statement. There is no mention of any appropriation at all. The chairman of the Committee on Appropriations never would have taken offense at the statement the Attorney General authorized, which I will put in the Record to-morrow morning.

Mr. GOOD. If the gentleman will yield further, I will say to the gentleman the Attorney General has been quoted very frequently in his criticism of Congress because of the failure to give money to deport aliens who were not desirable citizens—

Mr. BYRNES of South Carolina. The gentleman was discussing sugar and has now switched to aliens. As I am not informed on that subject, I can not answer.

The SPEAKER. The time of the gentleman has expired.

Mr. BYRNES of South Carolina. In accordance with permission granted by the House, I insert the statement issued by the Attorney General.

The Attorney General to-day authorized the following statement:

A conference has been held this morning between representatives of the Sugar Equalization Board and the Department of Justice, in which the sugar situation was reviewed. The Department of Justice has neither the power nor the facilities with which to control the purchase or distribution of sugar. The only governmental body having this power is the Sugar Equalization Board, and its control terminates on December 31. The Congress, although requested to do so, has failed to extend the life of the board. The Department of Justice will confine its efforts in the future, as it has in the past, to the enforcement of the provisions of the Lever Food-Control Act, as amended, by prosecuting all instances of sales of sugar for an unjust or unreasonable profit.

The Department of Justice has never attempted to fix the price of sugar. It has accepted in the past the recommendations of the Sugar Equalization Board very largely in determining maximum fair prices. The fair margins of profit allowed are those established by the Food Administration. When such determinations were made they have been communicated to the district attorneys, who were advised that any sales in excess of the maximum figure set should be considered unfair and unreasonable. The early termination of the board will make it impossible to set any definite price on sugar in the future or control its distribution. Every sale will be treated on its own merits, and in all cases where the district attorney has evidence indicating an unfair profit or withholding of sugar from the normal consumptive channels, or any discrimination in price to the manufacturer or to the jobber supplying the domestic consumer, he will proceed under the Lever Food-Control Act.

The SPEAKER. The previous question was ordered on the bill H. R. 9755 by the rule. The first question is on the amendments adopted in the Committee of the Whole House on the state of the Union. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

The question was taken, and the amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time.

Mr. BLANTON. Mr. Speaker, I request a reading of the engrossed copy.

The SPEAKER. The gentleman from Texas demands a reading of the engrossed copy of the bill.

#### SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 3427. An act to establish a commission to report to Congress on the practicability, feasibility, and place, and to devise plans for the construction of a public bridge over the Niagara River from some point in the city of Buffalo, N. Y., to some point in the Dominion of Canada, and for other purposes; to the Committee on Interstate and Foreign Commerce.

#### ENROLLED BILLS SIGNED.

Mr. RAMSEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 6857. An act to authorize the change of the name of the steamer *Charlotte Graveret Breitung* to *T. K. Maher*.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 1229. An act to amend an act approved March 26, 1908, entitled "An act to provide for the repayment of certain commissions, excess payments, and purchase moneys paid under the public land laws"; and

S. 183. An act providing additional time for the payment of purchase money under homestead entries of lands within the former Fort Peck Indian Reservation, Mont.

#### ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 31 minutes p. m.) the House, under its previous order, adjourned to meet on Monday, December 8, 1919, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting a report of the Surgeon General of the Public Health Service for the fiscal year 1919 (H. Doc. No. 436); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

2. A letter from the managing director of the War Finance Corporation, transmitting report covering operations from December 1, 1918, to November 30, 1919, inclusive (H. Doc. No. 479); to the Committee on Ways and Means and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Acting Secretary of the Interior, submitting a supplemental estimate of appropriation for tunnel investigations by the Bureau of Mines, fiscal year 1921 (H. Doc. No. 476); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of Labor, submitting a supplemental estimate of appropriation required to defray the expenses of the second industrial conference, called by the President to meet December 1, 1919 (H. Doc. No. 477); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Interior, submitting a supplemental estimate of appropriation for fuel inspection, Bureau of Mines, for the fiscal year 1921 (H. Doc. No. 478); to the Committee on Appropriations and ordered to be printed.

## CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 10574) granting a pension to Harlem L. Gorham, and the same was referred to the Committee on Pensions.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PETERS: A bill (H. R. 10916) authorizing the Secretary of War to donate to the third congressional district in Maine 25 cannon or fieldpieces; to the Committee on Military Affairs.

By Mr. TOWNER: A bill (H. R. 10917) to amend an act entitled "An act to incorporate the National Education Association of the United States" by adding thereto an additional section; to the Committee on Education.

By Mr. FORDNEY: A bill (H. R. 10918) to provide revenue and encourage domestic industries by the elimination, through the assessment of special duties, of unfair foreign competition, and for other purposes; to the Committee on Ways and Means.

By Mr. CLARK of Florida: A bill (H. R. 10919) to require the Secretary of War to cause to be made a survey for a canal from Cumberland Sound to the mouth of the Mississippi River, and to make full and complete report to Congress of the most feasible route and cost of construction; to the Committee on Railways and Canals.

By Mr. BOOHER: A bill (H. R. 10920) declaring Platte River to be a nonnavigable stream in the State of Missouri; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: A bill (H. R. 10921) to create a national department of highways and a national highway commission therein, to promote and organize a national system of highways, to increase the economy and efficiency of transportation, to assist industry and commerce, to improve the facilities for postal service, and to provide additional means for national defense; to the Committee on Agriculture.

By Mr. BRAND: A bill (H. R. 10922) to grant the consent of Congress to the Alford's Bridge Co. to construct a bridge across the Savannah River; to the Committee on Interstate and Foreign Commerce.

By Mr. CRISP: A bill (H. R. 10923) to repeal the tax on oleomargarine; to the Committee on Agriculture.

By Mr. REBER: A bill (H. R. 10924) to amend an act entitled "An act for the preservation of the public peace and the protection of property within the District of Columbia," approved July 29, 1892; to the Committee on the District of Columbia.

By Mr. TOWNER: A bill (H. R. 10925) for the public protection of maternity and infancy and providing a method of cooperation between the Government of the United States and

the several States; to the Committee on Interstate and Foreign Commerce.

By Mr. PLATT: A bill (H. R. 10926) for the purchase and erection of an armor plate security vault building for the use of the Treasury Department; to the Committee on Public Buildings and Grounds.

By Mr. CRAMTON: Resolution (H. Res. 412) directing the Secretary of the Interior to send forthwith to the House of Representatives certain information with reference to any fraud in the former Uintah Indian Reservation; to the Committee on the Public Lands.

By Mr. RAKER: Joint resolution (H. J. Res. 255) proposing an amendment to the Constitution of the United States relating to citizenship of children of foreign parentage; to the Committee on the Judiciary.

By Mr. ROUSE: Joint resolution (H. J. Res. 256) to extend and make applicable to those who rendered honorable and faithful services with the American Red Cross, Young Men's Christian Association, Knights of Columbus, Salvation Army, and other like auxiliary organizations during the World War, the benefits of certain existing laws; to the Committee on Reform in the Civil Service.

## PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEGG: A bill (H. R. 10927) granting a pension to Walter Barbo; to the Committee on Pensions.

Also, a bill (H. R. 10928) for the relief of Robert B. Griggs; to the Committee on Military Affairs.

By Mr. BLAND of Indiana: A bill (H. R. 10929) granting a pension to Charles S. Porter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10930) granting a pension to Jane Burton; to the Committee on Invalid Pensions.

By Mr. BOOHER: A bill (H. R. 10931) granting a pension to Mary A. McGill; to the Committee on Invalid Pensions.

By Mr. BURROUGHS: A bill (H. R. 10932) granting an increase of pension to Eben N. Higley; to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Kansas: A bill (H. R. 10933) granting a pension to Columbus Brundage; to the Committee on Pensions.

Also, a bill (H. R. 10934) granting an increase of pension to Harry A. Smith; to the Committee on Pensions.

By Mr. CROWTHER: A bill (H. R. 10935) granting a pension to Anna Sharp; to the Committee on Pensions.

By Mr. EDMONDS: A bill (H. R. 10936) for the relief of the Liberty-loan subscribers of the North Penn Bank; to the Committee on Claims.

By Mr. ELLIOTT: A bill (H. R. 10937) granting an increase of pension to Martha J. James; to the Committee on Invalid Pensions.

By Mr. FULLER of Illinois: A bill (H. R. 10938) granting an increase of pension to Margaret Goldie; to the Committee on Pensions.

By Mr. KING: A bill (H. R. 10939) granting a pension to William O. Wallace; to the Committee on Pensions.

By Mr. McKINLEY: A bill (H. R. 10940) for the relief of Charles L. Moore; to the Committee on Claims.

Also, a bill (H. R. 10941) granting a pension to Elizabeth Shaw; to the Committee on Pensions.

Also, a bill (H. R. 10942) to correct the military record of Frederick Bruns; to the Committee on Military Affairs.

By Mr. MICHENER: A bill (H. R. 10943) granting a pension to Betsey Palmer Mason; to the Committee on Invalid Pensions.

By Mr. MOORE of Ohio: A bill (H. R. 10944) granting a pension to Edward C. Crawford; to the Committee on Pensions.

By Mr. MOORES of Indiana: A bill (H. R. 10945) granting a pension to Elsie C. Bright; to the Committee on Pensions.

By Mr. RICKETTS: A bill (H. R. 10946) granting an increase of pension to Whitney P. Carroll; to the Committee on Pensions.

Also, a bill (H. R. 10947) granting a pension to William N. Hupp; to the Committee on Pensions.

By Mr. RIORDAN: A bill (H. R. 10948) granting a pension to Ella E. Carbonell; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 10949) granting an increase of pension to Joseph Phillips; to the Committee on Pensions.

By Mr. SNELL: A bill (H. R. 10950) granting an increase of pension to Merritt A. White; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10951) granting an increase of pension to George W. Flack; to the Committee on Invalid Pensions.



By Mr. TAYLOR of Tennessee: A bill (H. R. 10952) granting an increase of pension to Robert W. Gibbs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10953) granting a pension to Tom S. Bailey; to the Committee on Pensions.

By Mr. TINCHER: A bill (H. R. 10954) granting an increase of pension to William A. Coddington; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10955) granting an increase of pension to Christopher Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10956) granting a pension to Charles A. Heiland; to the Committee on Pensions.

By Mr. VAILE: A bill (H. R. 10957) for the relief of Mark A. Skinner; to the Committee on Claims.

By Mr. WELTY: A bill (H. R. 10958) granting a pension to James A. Franklin; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

111. By the SPEAKER (by request): Petition of Middle Atlantic States Federation of Young Men's Hebrew and Kindred Associations of Norfolk, Va., protesting against pogroms against Jews in eastern Europe; to the Committee on Foreign Affairs.

112. By Mr. BABKA: Petition of Brooklyn Post, Department of Ohio, Grand Army of the Republic, favoring the payment of \$50 to Civil War veterans and \$30 to their widows, to all who served 90 days or more; to the Committee on Invalid Pensions.

113. Also, petition of Lodge No. 215 of the Switchmen's Union of North America, favoring Government ownership of railroads and opposing antistrike legislation; to the Committee on Interstate and Foreign Commerce.

114. By Mr. BURROUGHS: Petition of the members of the New Hampshire Conference of Social Work in convention assembled in Portsmouth, N. H., on November 21, 1919, requesting the Government to take such measures as will give immediate protection to American relief workers and American property and to the stricken people in Armenia; to the Committee on Foreign Affairs.

115. By Mr. FULLER of Illinois: Petition of George H. Thomas Post, No. 5, Illinois Grand Army of the Republic, for increase of Civil War pensions; to the Committee on Invalid Pensions.

116. By Mr. MCGLENNON: Petition of Contemporary Club of Newark, N. J., favoring the Jones-Raker bill regarding Army nurses; to the Committee on Military Affairs.

117. Also, memorial of Henry Joy McCracken Branch, Friends of Irish Freedom, Newark, N. J., commending the Senators who defeated the league of nations; to the Committee on Foreign Affairs.

118. Also, memorial of Pierce McCann Branch, of the Friends of Irish Freedom, of Jersey City, N. J., thanking the Senators who caused the defeat of the league of nations; to the Committee on Foreign Affairs.

119. By Mr. MACGREGOR: Petition of Licensed Tugmen's Protective Association of Buffalo, N. Y., opposing Cummins bill; to the Committee on Interstate and Foreign Commerce.

120. Also, petition of International Union of Steam and Operating Engineers, opposing Cummins bill; to the Committee on Interstate and Foreign Commerce.

121. Also, petition of Brotherhood of Locomotive Engineers, of Albany, N. Y., favoring two-year extension of Government control of railroads; to the Committee on Interstate and Foreign Commerce.

122. Also, petition of Buffalo Federation of Churches, of Buffalo, N. Y., urging limitations upon immigration; to the Committee on Immigration and Naturalization.

123. Also, petition of Buffalo Chamber of Commerce, favoring Plumb plan of railroad control; to the Committee on Interstate and Foreign Commerce.

124. Also, petition of Buffalo Lodge, No. 23, Benevolent and Protective Order of Elks, urging deportation of disloyal aliens; to the Committee on the Judiciary.

125. By Mr. RAKER: Petitions of Keystone Parlor, No. 173, Native Sons of the Golden West, of Amador City, Calif.; Sacramento Post, No. 61, American Legion; Hiawatha Parlor, No. 140, Native Daughters of the Golden West, of Redding, Calif.; Laurel Parlor, No. 6, Native Daughters of the Golden West, of Nevada City, Calif., all relative to Asiatic immigration; to the Committee on Immigration and Naturalization.

126. Also, petition of A. J. Harder, editor of the Roseville Register, Roseville, Calif., for retention of zone system for second-class mail; to the Committee on the Post Office and Post Roads.

127. Also, petition of the Riverside Chamber of Commerce, Riverside, Calif., for creation of Federal Highway Commission and the adoption of a Federal highway plan; to the Committee on Roads.

128. Also, petition of Salinas Valley Merchants' Protective Association, opposing House bill S315; to the Committee on Interstate and Foreign Commerce.

129. By Mr. REBER: Petition of Pottsville Chamber of Commerce, Pottsville, Pa., favoring House bill 6852; to the Committee on Rivers and Harbors.

130. By Mr. ROWAN: Petition of S. C. Schwed, of New York, for increase in salaries to Federal employees; to the Committee on Reform in the Civil Service.

131. Also, petition of Elisha K. Kane, of Kushequa, Pa., concerning strike situation; to the Committee on the Judiciary.

132. Also, petition of Union of Technical Men of New York opposing antistrike legislation in railroad bill; to the Committee on Interstate and Foreign Commerce.

133. Also, petition of Order of Sleeping Car Conductors of New York concerning railroad legislation; to the Committee on Interstate and Foreign Commerce.

134. Also, petition of National Association of Owners of Railroad Securities presenting facts concerning railroad legislation; to the Committee on Interstate and Foreign Commerce.

135. By Mr. VAILE: Petition of Denver Civil and Commercial Association indorsing Townsend bill for construction of national highways; to the Committee on Roads.

#### SENATE.

SATURDAY, December 6, 1919.

(Legislative day of Thursday, December 4, 1919.)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

The Vice President being absent, the President pro tempore (Mr. CUMMINS) took the chair.

LAWRENCE Y. SHERMAN, a Senator from the State of Illinois, appeared in his seat to-day.

#### RAILROAD CONTROL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3288) further to regulate commerce among the States and with foreign nations and to amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended.

Mr. JONES of Washington. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Capper	Johnson, Calif.	New	Sherman
Chamberlain	Jones, Wash.	Newberry	Smoot
Cummins	Kellogg	Norris	Sterling
Curtis	Keyes	Nugent	Swanson
Dial	Kirby	Overman	Thomas
Elkins	La Follette	Page	Walsh, Mass.
Frelinghuysen	Lodge	Pomerene	Warren
Gay	Moses	Reed	Watson
Hale	Myers	Sheppard	Williams

Mr. CURTIS. I was requested to announce the absence of the Senator from Maryland [Mr. FRANCE] on account of illness. I will let this announcement stand for the day.

The PRESIDENT pro tempore. Thirty-five Senators have answered to their names. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. RANDELL and Mr. WALSH of Montana answered to their names when called.

Mr. DIAL, Mr. JOHNSON of South Dakota, Mr. KENYON, Mr. FLETCHER, Mr. STANLEY, and Mr. KING entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Forty-three Senators have answered to their names. There is not a quorum present.

Mr. SMOOT. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

Mr. SHEPPARD. I wish to announce that the Senator from Delaware [Mr. WOLCOTT] is detained from the Senate on public business.

Mr. KING. The Senator from Arizona [Mr. ASHURST], the Senator from Kentucky [Mr. BECKHAM], the Senator from Ne-